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INTERSTATE COMMERCE COMMISSION

CONDITIONAL SALE AGREEMENT

Dated as of May 15, 1974

among

THRALL CAR MANUFACTURING COMPANY

UNITED STATES TRUST COMPANY OF NEW YORK,

as Trustee

and

WISCONSIN POWER AND LIGHT COMPANY

WISCONSIN PUBLIC SERVICE CORPORATION

MADISON GAS AND ELECTRIC COMPANY

CONDITIONAL SALE AGREEMENT

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CONDITIONAL SALE AGREEMENT dated as of May 15, 1974 among THRALL CAR MANUFACTURING COMPANY (hereinafter called the Vendor or Builder as more particularly set forth in Article 1); UNITED STATES TRUST COMPANY OF NEW YORK, as Trustee (hereinafter, together with its successors and assigns, called the Vendee) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with GENERAL ELECTRIC CREDIT CORPORATION (hereinafter called the Beneficiary); and WISCONSIN POWER AND LIGHT COMPANY, WISCONSIN PUBLIC SERVICE CORPORATION and MADISON GAS AND ELECTRIC COMPANY (hereinafter called collectively the Lessees and individually a Lessee).

WHEREAS, the Builder has agreed to construct, sell and deliver to the Vendee, and the Vendee has agreed to purchase, the railroad equipment described in Annex A hereto (hereinafter called the Equipment); and

WHEREAS, the Vendee is entering into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease), substantially in the form of Annex B hereto, with the Lessees, and the Lessees are willing to provide for the payment to the Builder of certain sums and have joined in this Agreement for the purpose of setting forth the terms and conditions of such payment and making certain further agreements as hereinafter set forth;

Now, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. *Assignment; Definitions.* The parties hereto contemplate (subject to the limitations set forth in the third paragraph of Article 3 and the first paragraph of Article 4) that the Vendee will furnish that portion of the purchase price for the Equipment as is required under subparagraph (a) of the third paragraph of Article 4 and that an amount equal to the balance of such purchase price shall be paid to the Builder by an assignee of the Builder's right, title and interest under this Agreement pursuant to an Agreement and Assignment dated as of the date hereof (hereinafter called the Assignment) between the Builder and Continental Illinois National Bank and Trust Company of Chicago, as Agent (hereinafter, together with its successors and assigns, called the Assignee) under a Finance Agreement dated as of the date hereof (hereinafter called the Finance Agreement) with the Beneficiary, the Lessees and the Investor named therein.

The term "Vendor," whenever used in this Agreement, means, before any assignment of its rights hereunder, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business, and, after any such assignment, both any assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained and excluded from any such assignment; and the term "Builder," whenever used in this Agreement, means, both before and after any such assignment, the party hereto which has manufactured the Equipment and any successor or successors for the time being to its manufacturing properties and business. In case of such assignment, the Vendee will assign to the Vendor, as security for the payment and performance of all the Vendee's obligations hereunder, certain rights, titles and interests of the Vendee in and to the Lease pursuant to an Assignment of Lease and Agreement dated as of the date hereof (hereinafter called the Lease Assignment), substantially in the form of Annex C hereto.

ARTICLE 2. *Construction and Sale.* Pursuant to this Agreement, the Builder shall construct the Equipment at its plant set forth in Annex A hereto and will sell and deliver to the Vendee, and the Vendee will purchase from the Builder and accept delivery of and pay for as hereinafter provided, the Equipment, each unit of which shall be constructed in accordance with the specifications referred to in Annex A hereto and in accordance with such modifications thereof as may be agreed upon in writing between the Builder, the Vendee and the Lessees (which specifications and modifications, if any, are hereinafter called the Specifications). The design, quality and component parts of each unit of the Equipment shall conform, on the date of completion of manufacture thereof, to all United States Department of Transportation and Interstate Commerce Commission requirements and standards for new equipment and to all standards recommended by the Association of American Railroads reasonably interpreted as being applicable to railroad equipment of the character of such units; and each such unit will be new railroad equipment.

ARTICLE 3. *Inspection and Delivery.* The Builder will deliver the units of the Equipment to the Vendee at the place specified in Annex A hereto, freight charges, if any, prepaid, in accordance with the delivery schedule set forth in Annex A hereto; *provided, however*, that delivery of any unit of the Equipment shall not be made until this Agreement and the Lease shall have been filed pursuant to Section 20c of the Interstate Commerce Act.

The Builder's obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Builder's reasonable control, including, but not limited to, acts of God, acts of government such as embargoes, priorities and allocations, war or war conditions, riot or civil commotion, sabotage, strikes, differences with workmen, accidents, fire, flood, explosion, damage to plant, equipment or facilities, delays in receiving necessary materials or delays of carriers or subcontractors.

Notwithstanding the preceding provisions of this Article 3, any Equipment not delivered, accepted and settled for on or before the Cut-Off Date (as defined in Article 4) shall be excluded from this Agreement and not included in the term "Equipment." In the event of any such exclusion, the parties hereto shall execute an agreement supplemental hereto limiting this Agreement to the Equipment not so excluded herefrom; and if the Builder's failure to deliver the Equipment so excluded resulted from one or more of the causes set forth in the immediately preceding paragraph, the Lessees shall be obligated to purchase such Equipment and pay the full purchase price therefor, determined as provided in this Agreement, if and when such Equipment shall be completed and delivered by the Builder. Such payment shall be in cash on the delivery of such Equipment, either directly or, if the Builder and the Lessees shall mutually agree, by means of a conditional sale agreement, equipment trust or other appropriate method of financing.

During construction, the Equipment shall be subject to inspection and approval by the authorized inspectors of the Vendee (who may be employees of any one of the Lessees), and the Builder shall grant to such authorized inspectors reasonable access to its plant. The Builder agrees to inspect all materials used in the construction of the Equipment in accordance with the standard quality control practices of the Builder. Upon completion of each unit or of a number of units of the Equipment, such unit or units shall be presented to an inspector of the Vendee for inspection at the place specified for delivery of such unit or units, and if each such unit

conforms to the Specifications, requirements and standards applicable thereto, such inspector or an authorized representative of the Vendee (who may be an employee of any one of the Lessees) shall execute and deliver to the Builder a certificate of acceptance (hereinafter called a Certificate of Acceptance) stating that such unit or units have been inspected and accepted on behalf of the Vendee and are marked in accordance with Article 10; *provided, however*, that the Builder shall not thereby be relieved of its warranty referred to in Article 14.

On delivery of each such unit hereunder at the place specified for delivery, the Builder shall have no further responsibility for, nor bear any risk of, any damage to or the destruction or loss of such unit; *provided, however*, that the Builder shall not thereby be relieved of its warranties referred to in Article 14.

ARTICLE 4. *Purchase Price and Payment.* The base price per unit of the Equipment is set forth in Annex A hereto. Such base price is subject to such increase or decrease as is agreed to by the Builder, the Vendee and the Lessees. The term "Purchase Price" shall mean the base price as so increased or decreased. If on any Closing Date (as hereinafter defined in this Article 4) the aggregate invoiced Purchase Price of Equipment for which settlement has theretofore been and is then being made under this Agreement would, but for the provisions of this sentence, exceed \$5,948,770 (or such greater amount as the Vendee with the consent of the Lessees may at its option agree to), the Builder (and any assignee of the Builder) and the Lessees will, upon request of the Vendee, enter into an agreement excluding from this Agreement such unit or units of Equipment then proposed to be settled for and specified by the Vendee as will, after giving effect to such exclusion, reduce such aggregate invoiced Purchase Price under this Agreement to not more than \$5,948,770 (or such greater amount as aforesaid). The Lessees agree to purchase any unit or units of Equipment so excluded from this Agreement from the Builder for cash on the date such unit or units would otherwise have been settled for under this Agreement, either directly or, if the Builder and the Lessees shall mutually agree, by means of a conditional sale agreement, equipment trust or other appropriate method of financing.

The Equipment shall be settled for in not more than five groups of units of the Equipment (consisting of not less than 25 units) delivered to and accepted by the Vendee (each such group being hereinafter called a Group). The term "Closing Date" with respect to each Group shall mean such date, not earlier than July 31, 1974 and not later than December 1, 1974 (such later date being hereinafter called the Cut-Off Date), and occurring not more than 10 Business Days following presentation by the Builder to the Vendee of the invoice for such Group and the Certificates of Acceptance in respect thereof and written notice thereof by the Builder to the Lessees, as shall be fixed by the Lessees by written notice delivered to the Vendee and the Vendor at least six Business Days prior to the Closing Date designated therein; *provided, however*, that prior to August 30, 1974 the aggregate Purchase Price of Equipment settled for hereunder shall not exceed \$3,852,940 (or, subject to the Assignee's having on deposit sufficient funds pursuant to the Finance Agreement to make the payment of the portion of the Purchase Price hereby contemplated, such greater amount as the Vendee with the consent of the Lessees may at its option agree to). The term "Business Days" as used herein means calendar days, excluding Saturdays, Sundays and any other day on which banking institutions in New York, New York, Chicago, Illinois or Milwaukee, Wisconsin are authorized or obligated to remain closed.

Subject to the provisions of the final paragraph of this Article 4, the Vendee hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, as follows:

(a) On the Closing Date with respect to each Group, an amount equal to 30% of the aggregate Purchase Price of such Group; and

(b) In 30 consecutive semi-annual installments, as hereinafter provided, an amount equal to the aggregate Purchase Price of the units of Equipment for which settlement is then being made, less the aggregate amount paid or payable with respect thereto pursuant to subparagraph (a) of this paragraph.

The portion of the Purchase Price payable pursuant to subparagraph (b) of the preceding paragraph (hereinafter called the Conditional Sale Indebtedness) shall be payable on June 1 and December 1 of each year, commencing June 1, 1975 and terminating December 1, 1989 (or if any such date is not a Business Day, on the next preceding Business Day), each such date being hereinafter called a Payment Date. The unpaid balance of the Conditional Sale Indebtedness shall bear interest from the Closing Date in respect of which such Indebtedness was incurred at the rate of $9\frac{3}{4}\%$ per annum and such interest shall be payable, to the extent accrued, on June 1 and December 1 of each year, commencing December 1, 1974 and terminating December 1, 1989. The installments of Conditional Sale Indebtedness payable on each Payment Date shall be calculated so that the aggregate of Conditional Sale Indebtedness and interest payable on each Payment Date shall be substantially equal and such installments shall completely amortize the Conditional Sale Indebtedness. The Vendee will furnish to the Vendor and the Lessees promptly after each Closing Date a schedule, in such number of counterparts as shall be requested by the Vendor, showing the respective amounts of Conditional Sale Indebtedness and interest payable on each Payment Date.

Interest under this Agreement shall be determined on the basis of a 360-day year of twelve 30-day months.

Subject to the provisions of the final paragraph of this Article 4, the Vendee will pay interest, to the extent legally enforceable, at the rate of $10\frac{3}{4}\%$ per annum upon all amounts remaining unpaid after the same shall have become due and payable pursuant to the terms hereof or such lesser amount as shall be legally enforceable, anything herein to the contrary notwithstanding.

All payments provided for in this Agreement shall be made in Chicago Clearing House or Federal funds. Except as provided in Article 7 and Article 8, the Vendee shall not have the privilege of prepaying any portion of the Conditional Sale Indebtedness prior to the date it becomes due.

The obligation of the Vendee to pay to the Vendor any amount required to be paid pursuant to the third paragraph of this Article 4 with respect to any Group is specifically subject to the fulfillment, on or before the Closing Date in respect of such Group, of the following conditions (any of which may be waived by the Vendee, and payment by the Vendee of the amount specified in subparagraph (a) of such third paragraph with respect to such Group shall be conclusive evidence that such conditions have been fulfilled or irrevocably waived):

(a) the Assignee shall have paid or caused to have been paid to the Builder the amounts contemplated to be paid by it as provided in Article 1 and in the Assignment and the documents required by the Assignment shall have been delivered;

(b) no event of default specified herein or Event of Default of the Lessees under the Lease, nor any event which, with notice, demand and/or lapse of time provided for herein or in the Lease, would constitute such an event of default or Event of Default shall have occurred and be continuing; and

(c) the Vendee shall have received (i) the opinions of counsel required by Section 16 of the Lease and (ii) such other documents as the Vendee may reasonably request.

Notwithstanding any other provision of this Agreement (including, but not limited to; any provision of Articles 16 and 17), it is understood and agreed by the Vendor that the liability of the Vendee for all payments to be made by it under and pursuant to this Agreement, with the exception only of the payments to be made pursuant to subparagraph (a) of the third paragraph of this Article 4, shall not exceed an amount equal to, and shall be payable only out of, the "income and proceeds from the Equipment" as hereinafter defined, and such payments shall be made by the Vendee only to the extent that the Vendee or any assignee of the Vendee shall have actually received sufficient "income or proceeds from the Equipment" to make such payments. Except as provided in the next preceding sentence, the Vendor agrees that the Vendee shall have no personal liability to make any payments under this Agreement whatsoever except from the "income and proceeds from the Equipment" to the extent actually received by the Vendee or any assignee of the Vendee. In addition, the Vendor agrees that the Vendee (i) makes no representation or warranty, and is not responsible for, the due execution, validity, sufficiency or enforceability of the Lease (or any document relative thereto) in so far as it relates to the Lessees or of any of the Lessees' obligations thereunder and (ii) shall not be responsible for the performance or observance by the Lessees of any of their agreements; representations, indemnities, obligations or other undertakings under the Lease, it being understood that as to all such matters the Vendor will look solely to the Vendor's rights under this Agreement against the Lessees and the Equipment and to the Vendee's rights under the Lease against the Lessees and the Equipment. As used herein, the term "income and proceeds from the Equipment" shall mean (i) if one of the events of default specified in Article 16 shall have occurred and while it shall be continuing, so much of the following amounts as are free and clear of all claims and liens by, through or under the Lessees received by the Vendee or the Assignee at any time after any such event of default and during the continuance thereof: (a) all amounts of rental (other than payments pursuant to Section 18 of the Lease which shall be made directly to the Beneficiary) and amounts in respect of Casualty Occurrences (as hereinafter defined in Article 7) or of a Termination Occurrence (as hereinafter defined in Article 8) paid for or with respect to the Equipment pursuant to the Lease, (b) any and all payments or proceeds received by the Vendee or any assignee of the Vendee for or with respect to the Equipment as the result of the sale, lease or other disposition thereof, after deducting all costs and expenses of such sale, lease or other disposition, and (c) any and all other payments received by the Vendee or any assignee of the Vendee under Section 11 of the Lease; and (ii) at any other time, only that portion of the amounts referred to in the foregoing clauses (a), (b) and (c) as are free and clear of all claims and liens by, through or under the Lessees received by the Vendee or the Assignee and as shall equal the portion of the Conditional Sale Indebtedness (including pre-

cause the Vendor to be fully informed in regard thereto. When five or more units of the Equipment shall have suffered a Casualty Occurrence, and in any event after the close of each calendar year during which any unit of the Equipment shall have suffered a Casualty Occurrence, exclusive in each case of units having suffered a Casualty Occurrence with respect to which payment shall have been made to the Vendor pursuant to this Article 7, the Vendee shall pay to the Vendor, on the next succeeding date for the payment of interest on the Conditional Sale Indebtedness (hereinafter called a Casualty Payment Date), a sum equal to the Casualty Value (as hereinafter defined in this Article 7) of such unit or units as of the Casualty Payment Date and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of such unit or units. Any money paid to the Vendor pursuant to this paragraph or received as the proceeds of insurance maintained in accordance with this Article 7 shall be applied to prepay, without penalty or premium, ratably in accordance with the unpaid balance thereof, each installment of the Conditional Sale Indebtedness, and the Vendee will promptly furnish to the Vendor and the Lessees a revised schedule of payments of installments of Conditional Sale Indebtedness and interest thereafter to be made, in such number of counterparts as the Assignee may request, calculated as provided in the fourth paragraph of Article 4.

Upon payment by the Vendee to the Vendor of the Casualty Value of any unit of the Equipment having suffered a Casualty Occurrence, absolute right to the possession of, title to and property in such unit shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor; however, the Vendor, if so requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, a bill of sale for such unit transferring the Vendor's security title thereto and property therein to the Vendee, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby or which result from claims against the Vendor not related to the ownership of the Equipment, the performance of the Vendor's duties and responsibilities under this Agreement or any instrument referred to herein or any other transaction pursuant to or contemplated by this Agreement or any instrument referred to herein.

The Casualty Value of each unit of the Equipment suffering a Casualty Occurrence shall be deemed to be that portion of the original Purchase Price thereof remaining unpaid on the date as of which such Casualty Value shall be determined (without giving effect to any prepayment or prepayments theretofore made under this Article 7), plus interest accrued thereon but unpaid as of such date. For the purpose of this paragraph, each payment of the Purchase Price in respect of Equipment made pursuant to Article 4 shall be deemed to be a payment on each unit of the Equipment in like proportion as the original Purchase Price of such unit bears to the aggregate original Purchase Price of all the Equipment.

The Lessees will at all times prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment, together with interest thereon and all other payments required hereby, at their own expense, cause to be carried and maintained property insurance in respect of the Equipment at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by railroad companies in respect of similar equipment, and in any event comparable in amounts and against risks insured against by the Lessees on non-railroad equipment owned by them. The proceeds of insurance shall be payable to the Vendor, the Vendee and the Lessees as their interests may appear.

Any insurance proceeds received by the Vendor in respect of units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Vendee to the Vendor pursuant to the second paragraph of this Article 7. If the Vendor shall receive any other insurance proceeds in respect of such units after the Vendee shall have made payment pursuant to this Article 7 without deduction for such insurance proceeds, the Vendor shall pay such insurance proceeds to the Vendee. All insurance proceeds received by the Vendor in respect of any unit or units of Equipment not suffering a Casualty Occurrence shall be paid to the Vendee upon receipt by the Vendor of a certificate signed by an authorized officer of the Lessees to the effect that any damage to the unit in respect of which such proceeds were paid has been fully repaired.

ARTICLE 8. *Termination Occurrence.* In the event that the Lease shall be terminated and all the units of the Equipment shall be sold, all as permitted by and in accordance with Section 8 of the Lease, the Vendee shall pay to the Vendor, on or prior to the Termination Date (as defined in the Lease), a sum equal to the Casualty Value (as defined in Article 7) of the units of the Equipment as of such Termination Date, plus a sum equal to the applicable premium provided for in the next succeeding sentence, and shall file, or cause to be filed, with the Vendor a certificate setting forth the Casualty Value of each unit. Any money paid to the Vendor pursuant to this paragraph shall be applied to prepay in full the unpaid balance of each installment of the Conditional Sale Indebtedness, together with interest accrued and unpaid thereon to the date of prepayment, plus a premium equal to the applicable percentage of the principal amount of the Conditional Sale Indebtedness being prepaid as set forth below:

<u>If Prepaid On:</u>	<u>Prepayment Premium Percentage</u>
December 1, 1984.....	3.026%
June 1, 1985.....	2.689
December 1, 1985.....	2.354
June 1, 1986.....	2.017
December 1, 1986.....	1.681
June 1, 1987.....	1.345
December 1, 1987.....	1.009
June 1, 1988.....	0.672
December 1, 1988.....	0.336
June 1, 1989.....	None
December 1, 1989.....	None

Upon payment by the Vendee to the Vendor of the sums in this Article 8 provided, absolute right to the possession of, title to and property in all units of the Equipment shall pass to and vest in the Vendee, without further transfer or action on the part of the Vendor; however, the Vendor, if so requested by the Vendee, will execute and deliver to the Vendee, at the expense of the Vendee, a bill of sale for all such units transferring the Vendor's security title thereto and property therein to the Vendee, or upon its order, free of all liens, security interests and other encumbrances created or retained hereby or which result from claims against the Vendor not related to the ownership of the Equipment, the performance of the Vendor's duties and responsibilities under this Agreement or any instrument referred to herein or any other transaction pursuant to or contemplated by this Agreement or any instrument referred to herein.

ARTICLE 9. *Reports and Inspections.* On or before March 31 in each year, commencing with the year 1975, the Vendee shall cause to be furnished to the Vendor an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all units of the Equipment that have suffered a Casualty Occurrence during the preceding calendar year (or since the date of this Agreement in the case of the first such statement) and such other information regarding the condition and state of repair of the Equipment as the Vendor may reasonably request and (b) stating that, in the case of all Equipment repaired or repainted during the period covered by such statement, the numbers and markings required by Article 10 have been preserved or replaced. The Vendor shall have the right, by its agents, to inspect the Equipment and the Lessees' records with respect thereto at such reasonable times as the Vendor may request during the term of this Agreement.

ARTICLE 10. *Marking of Equipment.* The Vendee will cause each unit of the Equipment to be kept numbered with its identifying number as set forth in Annex A hereto, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Vendor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Vendor's interest in the Equipment and its rights under this Agreement. The Vendee will not permit any such unit to be placed in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace or will cause to be replaced promptly any such markings which may be removed, defaced or destroyed. The Vendee will not permit the identifying number of any unit of the Equipment to be changed except in accordance with a statement of new number or numbers to be substituted therefor, which statement previously shall have been filed with the Vendor and filed, recorded, registered and deposited by the Vendee in all public offices where this Agreement shall have been filed, recorded, registered and deposited.

Except as provided in the immediately preceding paragraph, the Vendee will not allow the name of any person, association or corporation to be placed on any unit of the Equipment as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Equipment may be lettered with the names or initials or other insignia customarily used by any of the Lessees.

ARTICLE 11. *Compliance with Laws and Rules.* During the term of this Agreement, the Vendee will comply, and will cause every user of the Equipment to comply, in all respects with all laws (including, without limitation, laws with respect to the use, maintenance and operation of the Equipment) of the jurisdictions in which operations involving the Equipment may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the title, operation or use of the Equipment; and in the event that such laws or rules require any alteration, replacement or addition of or to any part of any unit of the Equipment, the Vendee will conform therewith at its own expense; *provided, however*, that the Vendee or the Lessees may, in good faith, contest the validity or application of any such law or rule in any

reasonable manner which does not, in the opinion of the Vendor, adversely affect the property or rights of the Vendor under this Agreement.

ARTICLE 12. *Possession and Use.* The Vendee, so long as an event of default shall not have occurred and be continuing under this Agreement, shall be entitled, from and after delivery of the Equipment by the Builder to the Vendee, to the possession of the Equipment and the use thereof, but only upon and subject to all the terms and conditions of this Agreement.

The Vendee may lease the Equipment to the Lessees as permitted by, and for use as provided in, the Lease, but the rights of the Lessees and their permitted assigns under the Lease shall at all times be subordinated and junior in rank to the rights, and shall be subject to the remedies, of the Vendor under this Agreement; *provided, however*, that so long as the Lessees shall not be in default under the Lease or under this Agreement, the Lessees shall be entitled to the possession and use of the Equipment. The Lessees acknowledge and agree to the subordination of the Lease as provided in the next preceding sentence. The Vendee hereby agrees that it will not exercise any of the remedies permitted in the case of an Event of Default under the Lease until the Vendor shall have received notice in writing of the Vendee's intended exercise thereof, and hereby further agrees to furnish to the Vendor copies of all summonses, writs, processes and other documents served by the Vendee upon the Lessees or served by the Lessees upon it in connection therewith. The Lease shall not be amended, modified or terminated (except in accordance with its terms) without the prior written consent of the Vendor.

The Vendee may also lease the Equipment to any railroad company, but only with the prior written consent of the Vendor, which consent may be subject to such conditions as the Vendor shall specify, including that (i) such lease shall provide that the rights of such lessee are made expressly subordinate to the rights and remedies of the Vendor under this Agreement, (ii) such lessee shall expressly agree not to assign or permit the assignment of any unit of the Equipment to service involving the operation and maintenance thereof outside the United States of America and (iii) a copy of such lease shall be furnished to the Vendor.

ARTICLE 13. *Prohibition Against Liens.* The Vendee will pay or discharge any and all sums claimed by any party from, through or under the Vendee or its successors or assigns which, if unpaid, might become a lien, charge, security interest or other encumbrance on or with respect to the Equipment, or any unit thereof, equal or superior to the Vendor's security title therein, and will promptly discharge any such lien, charge, security interest or other encumbrance which arises, *provided, however*, that the Vendee shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Vendor, adversely affect the security title of the Vendor in or to the Equipment or otherwise adversely affect its rights under this Agreement. Any amounts paid by the Vendor in discharge of liens, charges, security interests or other encumbrances upon the Equipment shall be secured by and under this Agreement.

This covenant will not be breached by reason of the existence of liens for taxes, assessments or governmental charges or levies, in each case so long as not due and delinquent, or undetermined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent.

ARTICLE 14. *Indemnities and Warranties.* The Vendee agrees to indemnify, protect and hold harmless the Vendor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees and expenses, penalties and interest, arising out of or as the result of the entering into or the performance of this Agreement, the retention by the Vendor of title to or a security interest in the Equipment, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any of the Equipment, any accident in connection with the operation, use, condition, possession, storage or return of any of the Equipment resulting in damage to property or injury or death to any person during the period when security title thereto remains in the Vendor or arising out of the transfer of security title to the Equipment by the Vendor pursuant to any of the provisions of this Agreement, except, however, any losses, damages, injuries, liabilities, claims and demands whatsoever arising out of any tort, breach of warranty or failure to perform any covenant hereunder by the Builder. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price of, and the conveyance of security title to, the Equipment, as provided in Article 5, or the termination of this Agreement in any manner whatsoever.

The Vendee will bear the responsibility for and risk of, and shall not be released from its obligations hereunder in the event of, any damage to or the destruction or loss of any unit of or all the Equipment.

The Builder warrants to the Vendee and the Lessees that the Equipment will be built in accordance with the Specifications, requirements and standards set forth in Article 2 and warrants the Equipment will be free from defects in material or design (except as to articles, materials or designs incorporated therein which were specified or supplied by the Vendee or the Lessees and not manufactured or designed by the Builder) and workmanship under normal use and service, the Builder's obligation under this paragraph being limited to repairing or replacing at its plant any part or parts of any unit of the Equipment which shall be returned, within one year after the delivery of such unit to the Vendee, to the Builder with transportation charges prepaid, and which the Builder's examination shall disclose to its satisfaction to have been thus defective. THE FOREGOING WARRANTY OF THE BUILDER IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES OF THE BUILDER EXCEPT UNDER ARTICLES 2, 3, 4 AND 14, and the Builder neither assumes nor authorizes any person to assume for it any other liability in connection with the construction and delivery of the Equipment except as aforesaid. It is further understood and agreed that in no event shall the Builder be liable for indirect or consequential damages of any kind. The Builder further agrees with the Vendee and the Lessees that neither the inspection as provided in Article 3 nor any examination or acceptance of any units of the Equipment as provided in said Article 3 shall be deemed a waiver or a modification by the Vendee and the Lessees of any of their rights under this Article 14.

Except in cases of articles or materials specified by the Vendee or the Lessees and not manufactured by the Builder and in cases of designs, systems, processes, formulae or combinations specified by the Vendee or the Lessees and not developed or purported to be developed by the

Builder, the Builder agrees to indemnify, protect and hold harmless the Vendee and the Lessees from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendee or the Lessees or their assigns because of the use in or about the construction or operation of any of the Equipment of any design, system, process, formula, combination, article or material which infringes or is claimed to infringe on any patent or other right. The Vendee likewise will indemnify, protect and hold harmless the Vendor from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Vendee and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Vendee and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. The Lessees likewise will indemnify, protect and hold harmless the Vendor and the Vendee from and against any and all liability, claims, costs, charges and expenses, including royalty payments and counsel fees, in any manner imposed upon or accruing against the Vendor or the Vendee because of the use in or about the construction or operation of any of the Equipment of any article or material specified by the Lessees and not manufactured by the Builder or of any design, system, process, formula or combination specified by the Lessees and not developed or purported to be developed by the Builder which infringes or is claimed to infringe on any patent or other right. In case any of the Equipment is determined to infringe on any patent or other similar right in respect of which liability may be charged against the Builder and the use of any of the Equipment is enjoined, the Builder shall, at its own expense, at its option, either procure for the Vendee and the Lessees the right to continue using such Equipment or replace the same with non-infringing equipment or modify the same so it becomes non-infringing. The Builder agrees to and hereby does, to the extent legally possible without impairing any claim, right or cause of action hereinafter referred to, assign, set over and deliver to the Vendee and the Lessees every claim, right and cause of action which the Builder has or hereafter shall have against the seller or sellers of any designs, systems, processes, formulae, combinations, articles or materials specified by the Vendee or the Lessees and purchased or otherwise acquired by the Builder for use in or about the construction or operation of any of the Equipment on the ground that any such design, system, process, formula, combination, article or material or operation thereof infringes or is claimed to infringe on any patent or other right; and the Builder further agrees to execute and deliver to the Vendee or the Lessees all and every such further assurance as may be reasonably requested by the Vendee or the Lessees more fully to effectuate the assignment and delivery of every such claim, right and cause of action. The Builder will give prompt notice to the Vendee and the Lessees of any claim known to the Builder from which liability may be charged against the Vendee or the Lessees hereunder, and each of the Vendee and the Lessees will give prompt notice to the Builder and to each other of any claim known to any of them from which liability may be charged against the Builder or one of them hereunder. Such covenants of indemnity shall continue in full force and effect notwithstanding the full payment of all sums due under this Agreement, the satisfaction and discharge of this Agreement or the termination of this Agreement in any manner.

ARTICLE 15. *Assignments.* The Vendee will not (a) except as provided in Article 12, transfer the right to possession of any unit of the Equipment or (b) sell, assign, transfer or otherwise dispose of its rights under this Agreement unless such sale, assignment, transfer or disposition (i) is made expressly subject in all respects to the rights and remedies of the Vendor hereunder (including, without limitation, rights and remedies against the Vendee and the Lessees) and (ii) provides that the Vendee shall remain liable for all the obligations of the Vendee under this Agreement. Subject to the preceding sentence, any such sale, assignment, transfer or disposition may be made by the Vendee without the vendee, assignee or transferee assuming any of the obligations of the Vendee hereunder.

All or any of the rights, benefits and advantages of the Vendor under this Agreement, including the right to receive the payments herein provided to be made by the Vendee and the benefits arising from the undertakings of the Lessees hereunder, may be assigned by the Vendor and reassigned by any assignee at any time or from time to time. No such assignment shall subject any assignee to, or relieve the Builder from, any of the obligations of the Builder to construct and deliver the Equipment in accordance herewith or to respond to its warranties and indemnities contained or referred to in Article 14, or relieve the Vendee or the Lessees of their respective obligations to the Builder under Articles 2, 3, 4, 6 and 14, or any other obligation which, according to its terms and context, is intended to survive an assignment.

Upon any assignment or reassignment referred to in the immediately preceding paragraph, either the assignor or the assignee shall give written notice to the Vendee and the Lessees, together with a counterpart or copy of such assignment, stating the identity and post office address of the assignee, and such assignee shall, by virtue of such assignment, acquire all the assignor's right, title and interest in and to the Equipment and this Agreement, or in and to a portion thereof, as the case may be, subject only to such reservations as may be contained in such assignment. From and after the receipt by the Vendee and the Lessees, respectively, of the notification of any such assignment, all payments thereafter to be made by the Vendee or the Lessees under this Agreement shall, to the extent so assigned, be made to the assignee in such manner as it may direct.

The Vendee and the Lessees recognize that it is the custom of railroad equipment manufacturers or sellers to assign agreements of this character and understand that the assignment of this Agreement, or of some of or all the rights of the Vendor hereunder, is contemplated. The Vendee and the Lessees expressly represent, for the purpose of assurance to any person, firm or corporation considering the acquisition of this Agreement or of all or any of the rights of the Vendor hereunder, and for the purpose of inducing such acquisition, that in the event of such assignment by the Vendor, as hereinbefore provided, the rights of such assignee to the entire unpaid indebtedness in respect of the Purchase Price of the Equipment, or such part thereof as may be assigned, together with interest and premium, if any, thereon, as well as any other rights hereunder which may be so assigned, shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever arising out of any breach of any obligation of the Builder in respect of the Equipment, or the manufacture, construction, delivery or warranty thereof, or in respect of any indemnity herein contained, nor subject to any defense, set-off, counterclaim or recoupment whatsoever arising by reason of any other indebtedness or liability at any time owing to the Vendee or the Lessees by the Builder. Any and all such obligations,

indebtedness or liability, howsoever arising, shall be and remain enforceable by the Vendee or the Lessees, as the case may be, against and only against the Builder.

In the event of any such assignment by the Vendor or successive assignments, the Vendee will, upon request by the assignee, change the markings on each side of each unit of the Equipment so as to be consistent with the interest of such assignee in the Equipment, to the extent necessary to conform to any requirements of the laws of the jurisdictions in which the Equipment shall be operated. The cost of such markings in the event of an assignment of all the Equipment at the time covered by this Agreement shall be borne by the Vendee, and in the event of an assignment of less than all such Equipment shall be borne by such assignee.

In the event of any such assignment by the Vendor, the Vendee and the Lessees will (a) in connection with each settlement for a Group of Equipment, deliver to the assignee, at the time of delivery of notice fixing the Closing Date for such Group, all documents required by the terms of such assignment to be delivered by each of them, respectively, to such assignee in connection with such settlement, in such number of counterparts or copies as may reasonably be requested, and (b) furnish to such assignee such number of counterparts of any other certificate or paper required by the Vendor as may reasonably be requested.

If the Builder shall not receive on any Closing Date the full Purchase Price in respect of all of the Equipment proposed to be settled for on such Closing Date, the Builder will promptly notify the Vendee and the Lessees of such event and, if such amount shall not have been previously paid, the parties hereto will, upon the request of the Builder, enter into an appropriate written agreement excluding from this Agreement those units of Equipment for which the full Purchase Price shall not have been received, and the Lessees will, not later than 90 days after such Closing Date, pay or cause to be paid to the Builder the unpaid Purchase Price of such units, together with interest thereon from such Closing Date to the date of payment by the Lessees at the highest prime rate of interest of leading Chicago banks in effect on such Closing Date.

ARTICLE 16. *Defaults.* In the event that any one or more of the following events of default shall occur and be continuing, to wit:

(a) the Vendee shall fail to pay in full any sum payable by the Vendee when payment thereof shall be due hereunder (irrespective of any provision of this Agreement limiting the liability of the Vendee), and such default shall continue for 15 days; or

(b) the Vendee shall, for more than 30 days after the Vendor shall have demanded performance thereof by written notice to the Vendee and the Beneficiary, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing or lease of the Equipment, on the part of the Vendee to be kept or performed or to make provision satisfactory to the Vendor for such compliance; or

(c) the Lessees shall, for more than 30 days after the Vendor shall have demanded performance thereof by written notice to the Lessees, the Vendee and the Beneficiary, fail or refuse to comply with any other covenant, agreement, term or provision of this Agreement, or of any agreement entered into concurrently herewith relating to the financing or lease of the Equipment, on the part of the Lessees to be kept or performed or to make provision satisfactory to the Vendor for such compliance, and neither the Vendee nor the Beneficiary shall have made such provision; or

(d) any proceedings shall be commenced by or against the Vendee or any of the Lessees for any relief under any bankruptcy or insolvency law, or any law relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangement, composition or extension, and, if such proceedings have been commenced against the Vendee or any of the Lessees, such proceedings shall not have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue) within 60 days after such proceedings shall have been commenced, or the Vendee or any of the Lessees shall make a general assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due; or

(e) the Vendee shall make or suffer any unauthorized assignment or transfer of this Agreement or any interest herein or any unauthorized transfer of the right to possession of any unit of the Equipment;

then at any time after the occurrence of such an event of default the Vendor may, upon written notice to the Vendee and the Lessees and upon compliance with any legal requirements then in force and applicable to such action by the Vendor, (i) subject to the rights of the Lessees set forth in Article 12, cause the Lease immediately (upon such notice) to terminate (and the Vendee and the Lessees each acknowledge the right of the Vendor to terminate the Lease) and/or (ii) declare (hereinafter called a Declaration of Default) the entire unpaid indebtedness in respect of the Purchase Price of the Equipment, together with the interest and premium, if any, thereon then accrued and unpaid, immediately due and payable, without further demand, and thereafter the aggregate of the unpaid balance of such indebtedness and interest and premium, if any, shall bear interest from the date of such Declaration of Default at the rate per annum specified in Article 4 as being applicable to amounts remaining unpaid after becoming due and payable, to the extent legally enforceable. Upon a Declaration of Default, the Vendor shall be entitled to recover judgment for the entire unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment so payable, with interest and premium, if any, as aforesaid, and to collect such judgment out of any property of the Vendee wherever situated. The Vendee or the Lessees, as the case may be, shall promptly notify the Vendor of any event which has come to its or their attention which constitutes, or with notice, demand and/or lapse of time could constitute, an event of default under this Agreement.

The Vendor may, at its election, waive any such event of default and its consequences and rescind and annul any Declaration of Default or notice of termination of the Lease by notice to the Vendee and the Lessees in writing to that effect, and thereupon the respective rights of the parties shall be as they would have been if no such event of default had occurred and no Declaration of Default or notice of termination of the Lease had been made or given. Notwithstanding the provisions of this paragraph, it is expressly understood and agreed by the Vendee and the Lessees that time is of the essence of this Agreement and that no such waiver, rescission or annulment shall extend to or affect any other or subsequent default or impair any rights or remedies consequent thereon.

ARTICLE 17. Remedies. At any time during the continuance of a Declaration of Default, the Vendor may, subject to the rights of the Lessees set forth in Article 12, and compliance with any mandatory requirements of law then in force and applicable to the action to be taken by

the Vendor, take or cause to be taken by its agent or agents immediate possession of the Equipment, or one or more of the units thereof, without liability to return to the Vendee or the Lessees any sums theretofore paid and free from all claims whatsoever, except as hereinafter in this Article 17 expressly provided, and may remove the same from the possession and use of the Vendee, the Lessees or any other person having such possession and use and for such purpose may enter upon the premises of the Vendee or the Lessees or any other premises where the Equipment may be located and may use and employ in connection with such removal any supplies, services and aids and any available trackage and other facilities or means of the Vendee or the Lessees.

In case the Vendor shall rightfully demand possession of the Equipment pursuant to this Agreement and shall designate a reasonable point or points for the delivery of the Equipment to the Vendor, the Vendee and the Lessees shall (subject to the rights of the Lessees set forth in Article 12), at their own expense, forthwith and in the usual manner, cause the Equipment to be moved to such point or points and shall there deliver the Equipment or cause it to be delivered to the Vendor. At the option of the Vendor, the Vendor may keep the Equipment, at the expense of the Lessees, on any lines of railroad or premises approved by the Vendor until the Vendor shall have leased, sold or otherwise disposed of the same. The agreement to deliver the Equipment as hereinbefore provided is of the essence of this Agreement, and, upon application to any court of equity having jurisdiction in the premises, the Vendor shall be entitled to a decree against the Vendee and/or the Lessees requiring specific performance hereof. The Vendee and the Lessees hereby expressly waive any and all claims against the Vendor and its agent or agents for damages of whatever nature in connection with any retaking of any unit of the Equipment in any reasonable manner.

At any time during the continuance of a Declaration of Default, the Vendor (after retaking possession of the Equipment as hereinbefore in this Article 17 provided) may, at its election and upon such notice as is hereinafter set forth, retain the Equipment in satisfaction of the entire indebtedness in respect of the Purchase Price of the Equipment and make such disposition thereof as the Vendor shall deem fit. Written notice of the Vendor's election to retain the Equipment shall be given to the Vendee and the Lessees by telegram or registered mail, addressed as provided in Article 21, and to any other persons to whom the law may require notice, within 30 days after such Declaration of Default. In the event that the Vendor should elect to retain the Equipment, all the Vendee's rights in the Equipment shall thereupon terminate and all payments made by the Vendee and the Lessees may be retained by the Vendor as compensation for the use of the Equipment; *provided, however*, that if the Vendee, before the expiration of the 30-day period described in the next proviso, should pay or cause to be paid to the Vendor the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest and premium, if any, thereon accrued and unpaid (but without premium except as provided in Article 8) and all other payments due under this Agreement, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee; and *provided further*, that if the Vendee, the Lessees or any other persons notified under the terms of this paragraph object in writing to the Vendor within 30 days from the receipt of notice of the Vendor's election to retain the Equipment, then the Vendor may not so retain the Equipment, but shall sell, lease or otherwise dispose of it or continue to hold it pending sale, lease or other disposition as hereinafter provided or as may other-

wise be permitted by law. If the Vendor shall not have given notice to retain as hereinabove provided or notice of intention to dispose of the Equipment in any other manner, it shall be deemed to have elected to sell the Equipment in accordance with the provisions of this Article 17.

At any time during the continuance of a Declaration of Default, the Vendor, with or without retaking possession of the Equipment, at its election and upon reasonable notice to the Vendee, the Lessees and any other persons to whom the law may require notice of the time and place, may, subject to the rights of the Lessees set forth in Article 12, sell the Equipment, or one or more units thereof, free from any and all claims of the Vendee, the Lessees or any other person claiming from, through or under the Vendee or the Lessees at law or in equity, at public or private sale and with or without advertisement, as the Vendor may determine; *provided, however*, that if, prior to such sale and prior to the making of a contract for such sale, the Vendee should tender full payment of the total unpaid balance of the indebtedness in respect of the Purchase Price of the Equipment, together with interest and premium, if any, thereon accrued and unpaid (but without premium except as provided in Article 8) and all other payments due under this Agreement, as well as the expenses of the Vendor in retaking possession of, removing, storing, holding and preparing the Equipment for, and otherwise arranging for, such sale and the Vendor's reasonable attorneys' fees, then in such event absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Vendee. The proceeds of any sale or other disposition, less the attorneys' fees and any other expenses incurred by the Vendor in retaking possession of, removing, storing, holding, preparing for sale and selling or otherwise disposing of the Equipment, shall be credited on the amount due to the Vendor under the provisions of this Agreement.

Any sale hereunder may be held or conducted at Chicago, Illinois or at such other place or places and at such time or times as the Vendor may specify, in one lot and as an entirety or in separate lots, and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Vendor may determine, so long as such sale shall be in a commercially reasonable manner. The Vendee, the Lessees and all other persons to whom the law requires notice shall be given written notice of such sale not less than 30 days prior thereto, by telegram or registered mail, addressed as provided in Article 21. If such sale is to be a private sale, it shall be subject to the rights of the Vendee and the Lessees to purchase or provide a purchaser, within 10 days prior to the proposed sale date, at the same price offered by the intending purchaser or a better price. The Vendor, the Vendee or the Lessees may bid for and become the purchaser of the Equipment, or any unit thereof, so offered for sale. In the event that the Vendor shall be the purchaser thereof, it shall not be accountable to the Vendee or the Lessees (except to the extent of surplus money received as hereinafter provided in this Article 17), and in payment of the purchase price therefor the Vendor shall be entitled to have credited on account thereof all sums due to the Vendor hereunder.

Each and every power and remedy hereby specifically given to the Vendor shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time and simultaneously and as often and in such order as may be deemed expedient by the Vendor. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Vendor in the exercise of any such power or remedy, and no renewal or extension of any payments due here-

under, shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Vendee or the Lessees shall not otherwise alter or affect the Vendor's rights or the Vendee's or the Lessees' obligations hereunder. The Vendor's acceptance of any payment after it shall have become due hereunder shall not be deemed to alter or affect the Vendee's or the Lessees' obligations or the Vendor's rights hereunder with respect to any subsequent payments or default therein.

If, after applying all sums of money realized by the Vendor under the remedies herein provided, there shall remain any amount due to it under the provisions of this Agreement, the Vendee shall pay the amount of such deficiency to the Vendor upon demand; and if the Vendee shall fail to pay such deficiency, the Vendor may bring suit therefor and shall be entitled to recover a judgment therefor against the Vendee. If, after applying as aforesaid all sums realized by the Vendor, there shall remain a surplus in the possession of the Vendor, such surplus shall be paid to the Vendee or the Lessees, as the case may be, to the extent of their respective interests therein.

The Vendee will pay all reasonable expenses, including attorneys' fees, incurred by the Vendor in enforcing its remedies under the terms of this Agreement. In the event that the Vendor shall bring any suit to enforce any of its rights hereunder and shall be entitled to judgment, then in such suit the Vendor may recover reasonable expenses, including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

The foregoing provisions of this Article 17 are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

ARTICLE 18. *Applicable Laws.* Any provision of this Agreement prohibited or unenforceable by any applicable law of any jurisdiction shall as to such jurisdiction be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Vendee and the Lessees to the full extent permitted by law, to the end that this Agreement shall be deemed to be a conditional sale and enforced as such.

Except as otherwise provided in this Agreement, the Vendee and the Lessees, to the full extent permitted by law, hereby waive all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or one or more units thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Vendor's rights under this Agreement and any and all rights of redemption.

ARTICLE 19. *Recording.* The Vendee or the Lessees will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act; and the Vendee and the Lessees will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record any and all further instruments required by law or reasonably requested by the Vendor for the purpose of proper protection, to the satisfaction of counsel for the

Vendor, of its security title to the Equipment and its rights under this Agreement or for the purpose of carrying out the intention of this Agreement; and the Vendee or the Lessees will promptly furnish to the Vendor certificates or other evidence of such filing, registering, depositing and recording satisfactory to the Vendor.

ARTICLE 20. *Article Headings; Effect and Modification of Agreement.* All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

This Agreement, including the Annexes hereto, exclusively and completely states the rights of the Vendor, the Vendee and the Lessees hereunder with respect to the Equipment and supercedes all other agreements, oral or written, with respect thereto. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Vendor, the Vendee and the Lessees.

ARTICLE 21. *Notices.* Any notice hereunder to any of the persons designated below shall be deemed to have been properly served if delivered personally or if mailed, certified mail postage prepaid, at the following specified addresses:

(a) To the Builder, P. O. Box 218, Chicago Heights, Illinois 60401, attention of Vice President-Finance, with a copy to Messrs. Carroll, Connelly, Hartigan & Hillery, One North LaSalle Street, Chicago, Illinois 60602, attention of John M. Hartigan;

(b) To the Assignee, 231 South LaSalle Street, Chicago, Illinois 60693, attention of Corporate Trust Department;

(c) To the Vendee, 130 John Street, New York, New York 10038, attention of Corporate Trust and Agency Division, with a copy to the Beneficiary at P.O. Box 8300, Stamford, Connecticut 06904 and at P.O. Box 81 (North Station), White Plains, New York 10603, attention of Loan Officer—Transportation Unit;

(d) To Wisconsin Power and Light Company, 222 West Washington Avenue, Madison, Wisconsin 53701, attention of Secretary;

(e) To Wisconsin Public Service Corporation, 700 North Adams Street, Green Bay, Wisconsin 54301, attention of Vice President-Finance;

(f) To Madison Gas and Electric Company, 100 North Fairchild Street, Madison, Wisconsin 53701, attention of Financial Vice President;

(g) To any other assignee of the Vendor or of the Vendee, at such address as may have been furnished in writing to the other parties hereto by such assignee;

or to such other address as may have been furnished in writing by such person to the other parties to this Agreement.

ARTICLE 22. *Immunities of Certain Individuals; Satisfaction of Undertakings.* No recourse shall be had in respect of any obligation due under this Agreement, or referred to herein, against any incorporator, stockholder, director or officer, past, present or future, of the Builder (or the Vendor) or of any of the Lessees, whether by virtue of any constitutional provision, statute or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability,

whether at common law, in equity, by any constitutional provision, statute or otherwise, of such incorporators, stockholders, directors or officers being forever released as a condition of and as consideration for the execution of this Agreement.

The obligations of the Vendee under the first paragraph of Article 7 and under Articles 6, 9, 10, 11, 13, 14 and 19 shall be deemed in all respects satisfied by the Lessees' undertakings contained in the Lease. The Vendee shall not have any responsibility for the Lessees' failure to perform such obligations, but if the same shall not be performed they shall constitute the basis for an event of default pursuant to Article 16. No waiver or amendment of the Lessees' undertakings under the Lease shall be effective unless joined in by the Vendor.

It is expressly understood and agreed by and between the parties hereto that, anything herein to the contrary notwithstanding: (i) each and all of the representations, undertakings and agreements herein made on the part of the Vendee are each and every one of them made and intended not as personal representations, undertakings and agreements by the Vendee, or for the purpose or with the intention of binding the Vendee personally, but are made and intended for the purpose of binding only the Trust Estate (as such term is used in the Trust Agreement); (ii) this Agreement is executed and delivered by the Vendee solely in the exercise of the powers expressly conferred upon the Vendee as Trustee under the Trust Agreement; and (iii) no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against the Vendee or the Beneficiary on account of any representation, undertaking or agreement of the Vendee, either expressed or implied, all such personal liability, if any, being expressly waived and released by the Vendor and by all persons claiming by, through or under the Vendor; *provided, however*, that the Vendor or any person claiming by, through or under the Vendor may look to the Trust Estate for satisfaction of the same.

ARTICLE 23. *Obligations of Lessees Several.* The obligations, duties and liabilities of each of the Lessees under this Agreement shall be several and not joint and shall be in the following percentages:

Wisconsin Power and Light Company.....	39.3%
Wisconsin Public Service Corporation.....	38.9%
Madison Gas and Electric Company.....	21.8%

provided, however, that any liability resulting from the failure of less than all of the Lessees to fulfill their respective obligations and duties hereunder shall be the sole responsibility of the Lessee or Lessees failing to fulfill such obligations or duties; and no other person, including without limitation the non-defaulting Lessee or Lessees and the Assignee, shall have any right or claim hereunder against any other non-defaulting Lessee by reason of such failure. Nothing herein contained shall be construed to create an association, joint venture, trust or partnership among the Lessees, or impose any trust or partnership duty, obligation or liability on or with respect to any one or more of the Lessees; and no Lessee or group of Lessees shall be deemed to be under the control of or to control any other Lessee or group of Lessees. Wisconsin Power and Light Company is hereby authorized to give notices on behalf of and otherwise to act as agent for all of the Lessees.

Nothing contained herein shall impair or affect any rights, claims or remedies which any Lessee may have against any other Lessee or Lessees by reason of or in connection with any de-

fault, breach or non-performance of any contract, agreement or other arrangement among any two or more of the Lessees other than the Finance Agreement or any document or instrument referred to therein or contemplated thereby. Wisconsin Power and Light Company shall give notice to each person named in Article 21 of any default by any of the other Lessees in depositing with Wisconsin Power and Light Company the necessary funds to satisfy such Lessee's obligations hereunder in accordance with the operating procedures established by and among the Lessees, it being understood and agreed that no Lessee shall have the right to perform the obligations of, or to cure the defaults of, any other Lessee or Lessees.

ARTICLE 24. *Law Governing.* The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Wisconsin; *provided, however*, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording, registering or depositing, if any, of this Agreement or of any assignment hereof as shall be conferred by the laws of the several jurisdictions in which this Agreement or any assignment hereof shall be filed, recorded, registered or deposited.

ARTICLE 25. *Execution.* This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated as of May 15, 1974 for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Agreement to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

THRALL CAR MANUFACTURING COMPANY

By [Signature]
Vice President

(CORPORATE SEAL)
Attest:

[Signature]
Secretary

UNITED STATES TRUST COMPANY OF
NEW YORK, as Trustee

By [Signature]
Vice President

(CORPORATE SEAL)
Attest:

[Signature]
Assistant Secretary

WISCONSIN POWER AND LIGHT COMPANY

By [Signature]
Vice President

(CORPORATE SEAL)
Attest:

[Signature]
Secretary

WISCONSIN PUBLIC SERVICE CORPORATION

By [Signature]
Vice President

(CORPORATE SEAL)
Attest:

[Signature]
Assistant Secretary

MADISON GAS AND ELECTRIC COMPANY

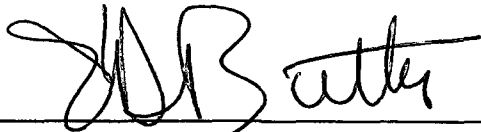
By [Signature]
Vice President

(CORPORATE SEAL)
Attest:

[Signature]
Secretary

STATE OF ILLINOIS }
COUNTY OF COOK } SS

On this 24 day of July, 1974, before me personally appeared JOHN P. LYNCH, to me personally known, who, being by me duly sworn, says that he is a Vice President of Thrall Car Manufacturing Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

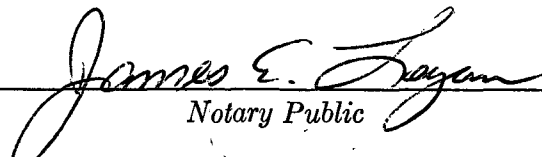
E. D. BUTLER

My commission expires

NOVEMBER 16, 1977

STATE OF NEW YORK }
COUNTY OF NEW YORK } SS

On this 26th day of July, 1974, before me personally appeared MALCOLM J. HOOD, to me personally known, who, being by me duly sworn, says that he is a Vice President of United States Trust Company of New York, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Notary Public

(NOTARIAL SEAL)

My commission expires

JAMES E. LOGAN
Notary Public, State of New York
No. 24-2393228
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1975

STATE OF WISCONSIN }
COUNTY OF DANE } SS

On this 24th day of July, 1974, before me personally appeared Edward A. Niegner, to me personally known, who, being by me duly sworn, says that he is a Vice President of Wisconsin Power and Light Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Elizabeth C. Madigan
Notary Public

(NOTARIAL SEAL)

My commission expires _____

ELIZABETH C. MADIGAN
Notary Public, Dane County, Wisconsin
My Commission Expires Jan. 26, 1975

STATE OF WISCONSIN }
COUNTY OF BROWN } SS

On this 25th day of July, 1974, before me personally appeared E. W. James, to me personally known, who, being by me duly sworn, says that he is a Vice President of Wisconsin Public Service Corporation, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Priscilla Delorit
Priscilla Delorit Notary Public

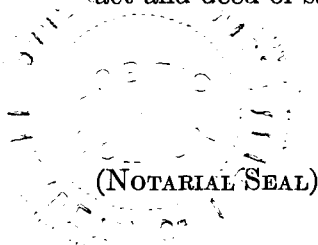
(NOTARIAL SEAL)

My commission expires _____

August 7, 1977

STATE OF WISCONSIN }
COUNTY OF DANE } ss

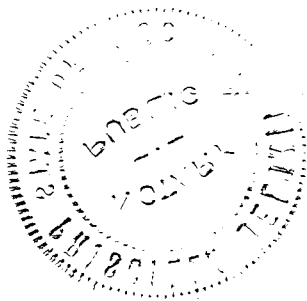
On this 24th day of July, 1974, before me personally appeared W. A. McNamara, to me personally known, who, being by me duly sworn, says that he is a Vice President of Madison Gas and Electric Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Elizabeth C. Madigan
Notary Public

My commission expires

ELIZABETH C. MADIGAN
Notary Public, Dane County, Wisconsin
My Commission Expires Jan. 26, 1975



<u>Type</u>	<u>Builder's Specifications</u>	<u>Builder's Plant</u>	<u>Quantity</u>	<u>Car Numbers (Both Inclusive)</u>	<u>Unit Base Price</u>	<u>Total Base Price</u>	<u>Estimated Time and Place of Delivery</u>
100-ton (4,000 cu. ft.) high-side steel gondola cars with swivel couplers	G2131	Chicago Heights, Illinois	281	WISX 300 through 580	\$21,170.00	\$5,948,770	July-August, 1974 at the Columbia Generating Station, Portage, Wisconsin

Annex A to
Conditional Sale Agreement

LEASE OF RAILROAD EQUIPMENT

Dated as of May 15, 1974

between

**UNITED STATES TRUST COMPANY OF NEW YORK,
*as Trustee***

and

**WISCONSIN POWER AND LIGHT COMPANY
WISCONSIN PUBLIC SERVICE CORPORATION
MADISON GAS AND ELECTRIC COMPANY**

LEASE OF RAILROAD EQUIPMENT

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LEASE OF RAILROAD EQUIPMENT dated as of May 15, 1974 between UNITED STATES TRUST COMPANY OF NEW YORK, as Trustee (hereinafter, together with its successors and assigns, called the Lessor) under a Trust Agreement dated as of the date hereof (hereinafter called the Trust Agreement) with GENERAL ELECTRIC CREDIT CORPORATION (hereinafter called the Beneficiary), and WISCONSIN POWER AND LIGHT COMPANY, WISCONSIN PUBLIC SERVICE CORPORATION and MADISON GAS AND ELECTRIC COMPANY (hereinafter called collectively the Lessees and individually a Lessee).

WHEREAS, the Lessor and the Lessees have entered into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Conditional Sale Agreement) with Thrall Car Manufacturing Company (hereinafter called the Builder) covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Lessor of the railroad equipment described in Annex A hereto (hereinafter called the Equipment);

WHEREAS, the Builder and Continental Illinois National Bank and Trust Company of Chicago, as Agent (hereinafter, together with its successors and assigns, called the Assignee) under a Finance Agreement dated as of the date hereof (hereinafter called the Finance Agreement) with the Lessees, the Beneficiary and the Investor named therein, have entered into an Agreement and Assignment dated as of the date hereof (hereinafter called the Assignment) assigning to the Assignee the right, security title and interest of the Builder under the Conditional Sale Agreement as security for the payment of the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreement);

WHEREAS, the Lessees desire to lease all the units of the Equipment, or such lesser number as are delivered, accepted and settled for under the Conditional Sale Agreement, at the rentals, for the terms and upon the conditions hereinafter stated (such number of units as are delivered, accepted and settled for under the Conditional Sale Agreement being hereinafter called the Units); and

WHEREAS, in order to provide further security for the payment of the Conditional Sale Indebtedness and as an inducement to such Investor to invest in the Conditional Sale Indebtedness, the Lessor will, concurrently with its execution and delivery of this Lease, enter into an Assignment of Lease and Agreement dated as of the date hereof (hereinafter called the Lease Assignment) with the Assignee assigning for security purposes certain of its rights in, to and under this Lease to the Assignee;

NOW, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessees, the Lessor hereby leases the Units to the Lessees upon the following terms and conditions:

SECTION 1. *Net Lease.* This Lease is a net lease and the Lessees shall not be entitled to any abatement of rent, reduction thereof or set-off against rent, including, but not limited to, abatements, reductions or set-offs due or alleged to be due by reason of any past, present or future claims of the Lessees against the Lessor under this Lease or under the Conditional Sale Agreement, including the Lessees' rights by subrogation thereunder to the Builder or the Assignee or otherwise; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessees be otherwise affected, by reason of any defect in or damage to or loss of possession or loss of use or destruction of all or any of the Units from whatsoever cause, any liens, encumbrances or rights of others with respect to any of the

Units, the prohibition of or other restriction against the Lessees' use of all or any of the Units, the interference with such use by any person or entity, the invalidity or unenforceability or lack of due authorization of this Lease, any insolvency of or the bankruptcy, reorganization or similar proceeding against any of the Lessees, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessees hereunder shall continue to be payable in all events in the manner and at the times herein provided unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. To the extent permitted by applicable law, the Lessees hereby waive any and all rights which they may now have or which at any time hereafter may be conferred upon them, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Units except in accordance with the express terms hereof. Each rental or other payment made by the Lessees hereunder shall be final, and the Lessees shall not seek to recover all or any part of such payment from the Lessor for any reason whatsoever.

SECTION 2. *Delivery and Acceptance of Units.* The Lessor hereby appoints the Lessees as its agents for the inspection and acceptance of, and the approval of all invoices relating to, the Units pursuant to the Conditional Sale Agreement and the Assignment. The Lessor will cause each Unit to be delivered to the Lessees at the point or points within the United States of America at which such Unit is delivered to the Lessor under the Conditional Sale Agreement. Upon such delivery, the Lessees will cause an employee of one of the Lessees or an authorized representative of the Lessees to inspect the same and, if such Unit is found to be acceptable, to accept delivery of such Unit and execute and deliver to the Lessor and the Builder a certificate of acceptance (hereinafter called a Certificate of Acceptance), in accordance with the provisions of Article 3 of the Conditional Sale Agreement, stating that such Unit has been inspected and accepted on behalf of the Lessees and the Lessor on the date of such Certificate of Acceptance and is marked in accordance with Section 5, whereupon such Unit shall be deemed to have been delivered to and accepted by the Lessees and shall thereafter be subject to all the terms and conditions of this Lease.

SECTION 3. *Rentals.* The Lessees agree to pay to the Lessor, as rental for each Unit subject to this Lease, 31 consecutive semi-annual payments on June 1 and December 1 in each year, commencing December 1, 1974. The rental payment due on December 1, 1974 shall be in an amount equal to .027083% of the Purchase Price (as defined in the Conditional Sale Agreement) of each Unit then subject to this Lease for each day (computed on the basis of a 360-day year of twelve 30-day months) elapsed from the Closing Date (as defined in the Conditional Sale Agreement) for such Unit to and including the date of such payment. The next 30 semi-annual rental payments shall each be in an amount equal to 5.633% of the Purchase Price of each Unit then subject to this Lease.

The rental payments hereinbefore set forth are subject to adjustment pursuant to Section 18. If any of the semi-annual rental payment dates referred to above is not a Business Day (as defined in Article 4 of the Conditional Sale Agreement) the semi-annual rental payment otherwise payable on such date shall be payable on the next preceding Business Day.

On each Closing Date, the Lessees agree to pay to the Lessor, as supplemental rental for each Unit becoming subject to this Lease, the amount of any storage, shipping, insurance and interest charges invoiced by the Builder to the Lessor with respect to such Units, it being understood that such charges relate to the storage of such Units by the Builder prior to their delivery under the Conditional Sale Agreement and this Lease and the delay between the respective

delivery dates of such Units (after the first 25 Units) and such Closing Date as set forth in the Builder's letter to the Lessor dated July 9, 1974.

As and when requested by the Lessor, the Lessees agree to pay to the Lessor from time to time, as supplemental rental hereunder, such amount as shall then be due under item (iii) of the first sentence of Section 21.

The Lessees agree that if for any reason whatsoever (i) any rental or other moneys payable by the Lessees under this Lease (all such rentals and moneys being hereinafter in this paragraph collectively called Rents) shall be diminished or subject to any diminution for any reason, or shall be subject to withholding at the source by reason of any taxes, assessments or liabilities of any character, foreseen or unforeseen, incurred by or against any person, including the Lessor, or by reason of any claims, charges or liens of any nature, foreseen or unforeseen, incurred by any person, including the Lessor, so that the Rents would thereby be rendered unavailable or would be less in amount than contemplated by this Lease, (ii) the payment in full of the Rents when the same are due and payable under this Lease shall be delayed, hindered or prevented or in any way adversely affected, (iii) the use or application of the Rents by the Assignee shall be hindered, delayed or prevented or the right of the Assignee to use or apply the same shall in any way be adversely affected, (iv) the Assignee shall refuse to apply the Rents as provided in the Conditional Sale Agreement and the Finance Agreement because of a threatened or pending suit in any court as a result of which the Assignee in good faith considers it may have personal liability if it does apply the Rents or (v) the holders of the Certificates of Interest issued by the Assignee under the Finance Agreement shall be subject to any liability or obligation to refund or pay over the Rents, then, in any such event, the Lessees will promptly pay as additional rent under this Lease, and take any action and incur any additional expense that may be necessary to the proper application of, an amount sufficient to (x) pay fully and discharge or otherwise eliminate or nullify the cause of such diminution or withholding, (y) eliminate or prevent any delay, hindrance or obstacle in the payment in full of the Rents when the same are due and payable under this Lease and in the use or application thereof by the Assignee and (z) protect fully the right of the Assignee to use or apply the Rents, indemnifying the Assignee against any personal liability which may arise from the application of the Rents and such holders against any liability or obligation to repay, or any loss in repaying, any moneys received from the Assignee.

The Lessor irrevocably instructs the Lessees to make all the payments (other than payments pursuant to Section 18 which shall be made directly to the Beneficiary) provided for in this Lease at the principal office of the Assignee, for the account of the Lessor, in care of the Assignee, with instructions to the Assignee first to apply such payments to satisfy the obligations of the Lessor under the Conditional Sale Agreement known to the Assignee to be due and payable on the date such payments are due and payable hereunder and second, so long as no event of default under the Conditional Sale Agreement shall have occurred and be continuing, to pay any balance promptly to the Beneficiary at such place as the Beneficiary shall specify in writing, unless and until the Lessor shall otherwise direct the Assignee in writing. The Lessees agree to make each payment provided for herein as contemplated by this paragraph in Federal funds in the city where such payment is to be made. The Lessees further agree that no payments shall be made to the Beneficiary pursuant to Section 18 unless concurrently therewith the Lessees shall pay to the Assignee, for the account of the Lessor, all amounts which are then due to the Lessor under the other provisions of this Lease; and the making of such concurrent payment is of the essence of this Lease, and, upon application to any court of equity having

jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessees requiring specific performance of the same.

SECTION 4. *Term of Lease.* The term of this Lease as to each Unit shall begin on the date of delivery and acceptance of such Unit hereunder and, subject to the provisions of Sections 7, 8, 11 and 14, shall terminate on the date on which the final payment of rent in respect thereof is due pursuant to Section 3.

Anything herein to the contrary notwithstanding, upon default by the Lessees hereunder or under the Conditional Sale Agreement, all rights and obligations under this Lease and in and to the Units are subject to the rights of the Assignee under the Conditional Sale Agreement and the Assignment. If an event of default should occur under the Conditional Sale Agreement, the Assignee may terminate this Lease (or rescind its termination) all as provided therein, unless the Lessees are not in default under this Lease.

SECTION 5. *Identification Marks.* The Lessees will cause each Unit to be kept numbered with an identifying number as set forth in Annex A hereto, or in the case of any Unit not there listed such identifying number as shall be set forth in any amendment or supplement hereto extending this Lease to cover such Unit, and will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each side of each Unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed under the Interstate Commerce Act, Section 20c" or other appropriate words designated by the Lessor, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Lessor's and the Assignee's title to and property in such Unit and the rights of the Lessor under this Lease and of the Assignee under the Conditional Sale Agreement. The Lessees will not place any such Unit in operation or exercise any control or dominion over the same until such markings shall have been made thereon and will replace promptly any such markings which may be removed, defaced or destroyed. The Lessees will not change the identifying number of any Unit unless and until (i) a statement of new number or numbers to be substituted therefor shall have been filed with the Assignee and the Lessor and filed, recorded, registered and deposited by the Lessees in all public offices where this Lease and the Conditional Sale Agreement shall have been filed, recorded, registered and deposited and (ii) the Lessees shall have furnished the Assignee and the Lessor an opinion of counsel for the Lessees with respect thereto satisfactory to the Assignee and the Lessor.

Except as provided in the immediately preceding paragraph, the Lessees will not allow the name of any person, association or corporation to be placed on any Unit as a designation that might be interpreted as a claim of ownership; *provided, however*, that the Units may be lettered with the names or initials or other insignia customarily used by any of the Lessees.

SECTION 6. *Taxes.* All payments to be made by the Lessees hereunder will be free of expense to the Lessor for collection or other charges and will be free of expense to the Lessor with respect to the amount of any local, state, federal or foreign taxes, license fees, assessments, charges, fines and penalties (all such expenses, taxes, license fees, assessments, charges, fines and penalties being hereinafter called collectively Impositions) hereafter levied or imposed upon or in connection with or measured by this Lease or any sale, rental, use, payment, shipment, delivery or transfer of title to the Units or otherwise under the terms hereof or the Conditional Sale Agreement, all of which Impositions the Lessees assume and agree to pay on demand in addition to the other payments to be made by them provided for herein; *provided*, that the foregoing agreement to pay Impositions shall not apply to the following, which shall not be deemed Impositions:

(i) federal income (including the minimum tax for tax preferences or any withholding tax) or other taxes, fees or charges imposed by the United States of America on, or based on or measured directly by, the net income of the Lessor, and, to the extent that the Lessor is entitled to or receives a credit or a deduction with respect to any such tax, fee or charge, any foreign income tax, fee or charge;

(ii) federal income or other taxes, fees or charges on, or based on or measured directly by, the net income of the Lessor imposed by the United States of America (a) in addition to, or (b) in whole or in part in lieu of, or as a substitute or alternate for, any tax, fee or charge described in clause (i) above, but not to exceed any tax on net income that would otherwise be imposed pursuant to clause (i) above;

(iii) state and local taxes imposed on the Lessor which are (a) taxes on engaging in business activities, employing capital or doing business or the privilege of doing business (whether or not imposed on, or based on or measured directly by, net income) or (b) imposed in whole or in part in lieu of, or as a substitute or alternate for, a tax described in subclause (a) of this clause (iii), but as to both subclauses (a) and (b) of this clause (iii) not to exceed such state and local taxes as are either (x) imposed by the jurisdiction in which the principal office of the Lessor is located and any other jurisdiction in which the Lessor is subject to taxation as the result of business, transactions or facts unrelated to this Lease or (y) if imposed by jurisdictions other than those described in subclause (x), result in a reduction of the Lessor's liability for such taxes in any of the jurisdictions described in subclause (x);

(iv) any taxes, fees or other charges incurred by reason of any transfer by the Lessor of any interest in the Units or any of them, the Trust Agreement or the Trust Estate (as defined in the Trust Agreement) while no Event of Default (as defined in Section 11) has occurred and is continuing; or

(v) any capital levy or estate, succession or inheritance taxes.

The Lessees will also pay promptly all Impositions which may be imposed upon any Unit or for the use or operation thereof or upon the earnings arising therefrom (except as provided above in this Section 6) or upon the Lessor solely by reason of its ownership thereof and will keep at all times all and every part of each Unit free and clear of all Impositions which might in any way affect the title of the Lessor or result in a lien upon any such Unit; *provided, however*, that the Lessees shall be under no obligation to pay any Imposition so long as they are contesting in good faith and by appropriate legal proceedings such Imposition and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the title, property or rights of the Lessor in or to the Units or hereunder or the Assignee under the Conditional Sale Agreement. If any Imposition shall have been charged or levied against the Lessor directly and paid by the Lessor, the Lessees shall reimburse the Lessor upon presentation of an invoice therefor.

In the event that the Lessor shall become obligated to make any payment to the Builder or the Assignee or otherwise pursuant to any correlative provision of the Conditional Sale Agreement not covered by the foregoing paragraph of this Section 6, the Lessees shall pay such additional amounts (which shall also be deemed Impositions hereunder) to the Lessor as will enable the Lessor to fulfill completely its obligations pursuant to said provision.

In the event any reports with respect to Impositions are required to be made, the Lessees will either make such reports in such manner as to show the interests of the Lessor and the Assignee in such Units or notify the Lessor and the Assignee of such requirement and make such reports in such manner as shall be satisfactory to the Lessor and the Assignee.

In the event that during the continuance of this Lease the Lessees become liable for the payment or reimbursement of any Imposition pursuant to this Section 6, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessees.

Any provision of this Section 6 to the contrary notwithstanding, the Lessees shall bear any taxes of the types described in clause (iii) of the proviso in the first paragraph of this Section 6 imposed upon the Lessor as an entity separate and apart from the Beneficiary unless, and to the extent that, such taxes upon the Lessor reduce as a direct credit any tax liability which the Lessor or the Beneficiary would otherwise be obligated to pay.

SECTION 7. *Payment for Casualty Occurrences; Insurance.* In the event that any Unit shall become worn out, lost, stolen, destroyed, irreparably damaged from any cause whatsoever or taken or requisitioned by condemnation or otherwise (such occurrences being hereinafter called Casualty Occurrences) during the term of this Lease, the Lessees shall promptly and fully notify the Lessor and the Assignee with respect thereto. When five or more Units shall have suffered a Casualty Occurrence, and in any event after the close of each calendar year during which any Unit shall have suffered a Casualty Occurrence, exclusive in each case of Units having suffered a Casualty Occurrence with respect to which payment shall have been made to the Lessor pursuant to this Section 7, on the rental payment date next succeeding, the Lessees shall pay to the Lessor an amount equal to the rental payment or payments in respect of such Unit or Units due and payable on such date, plus a sum equal to the Casualty Value of such Unit or Units as of the date of such payment in accordance with the schedule set out below. Upon (but not prior to) the making of such payment by the Lessees in respect of any Unit, the rental for such Unit shall thereafter cease to accrue, the term of this Lease as to such Unit shall terminate and (except in the case of the loss, theft or complete destruction of such Unit) the Lessor shall be entitled to recover possession of such Unit. The Lessor hereby appoints the Lessees as its agents to dispose of any Unit suffering a Casualty Occurrence or any component thereof at the best price obtainable on an "as is, where is" basis. If the Lessees shall have previously paid the Casualty Value to the Lessor, the Lessees shall be entitled to the proceeds of such sale to the extent that such proceeds do not exceed the Casualty Value of such Unit, and shall pay any excess to the Lessor.

Subject to adjustment pursuant to the provisions of Section 18, the Casualty Value of each Unit as of the rental payment date on which payment is to be made as aforesaid shall be that percentage of the Purchase Price of such Unit as is set forth in the following schedule opposite such date:

<u>Rental Payment Date</u>	<u>Percentage</u>	<u>Rental Payment Date</u>	<u>Percentage</u>
December 1, 1974.....	104.9946%	June 1, 1982.....	82.0291%
June 1, 1975.....	104.0378	December 1, 1982.....	79.1425
December 1, 1975.....	103.7376	June 1, 1983.....	76.1116
June 1, 1976.....	103.1602	December 1, 1983.....	72.9422
December 1, 1976.....	102.5755	June 1, 1984.....	69.6355
June 1, 1977.....	101.5302	December 1, 1984.....	66.2162
December 1, 1977.....	100.4071	June 1, 1985.....	62.6877
June 1, 1978.....	99.0954	December 1, 1985.....	59.0519
December 1, 1978.....	97.6235	June 1, 1986.....	55.3064
June 1, 1979.....	95.9509	December 1, 1986.....	51.4480
December 1, 1979.....	94.0862	June 1, 1987.....	47.4728
June 1, 1980.....	92.0292	December 1, 1987.....	43.3910
December 1, 1980.....	89.7890	June 1, 1988.....	39.2074
June 1, 1981.....	87.3656	December 1, 1988.....	34.9209
December 1, 1981.....	84.7720	June 1, 1989.....	30.5301
		December 1, 1989.....	20.0000

Except as hereinabove in this Section 7 provided, the Lessees shall not be released from their obligations hereunder in the event of, and shall bear the risk of, any Casualty Occurrence to any Unit from and after delivery and acceptance thereof by the Lessees hereunder.

The Lessees will, at all times while this Lease is in effect, at their own expense, cause to be carried and maintained property insurance in respect of the Units at the time subject hereto, and public liability insurance, in amounts and against risks customarily insured against by railroad companies on similar equipment, and in any event in amounts and against risks comparable to those insured against by the Lessees on non-railroad equipment owned by the Lessees, and the proceeds thereof shall be payable as provided in the Conditional Sale Agreement so long as the indebtedness, if any, evidenced thereby shall not have been paid in full, and thereafter to the Lessor and the Lessees as their interests may appear. Any net insurance proceeds resulting from insurance carried by the Lessees received by the Lessor in respect of Units suffering a Casualty Occurrence shall be deducted from the amounts payable by the Lessees to the Lessor in respect of Casualty Occurrences pursuant to this Section 7. If the Lessor shall receive any such net insurance proceeds or condemnation payments after the Lessees shall have made payments pursuant to this Section 7 without deduction for such net insurance proceeds or such condemnation payments, the Lessor shall pay such net insurance proceeds or condemnation payments to the Lessees up to an amount equal to the Casualty Value with respect to a Unit paid by the Lessees unless an Event of Default or other event which, with notice, demand and/or lapse of time, would constitute such an Event of Default shall have occurred and be continuing, in which case the amount otherwise payable to the Lessees may be retained by the Lessor and applied to discharge the liabilities of the Lessees under Section 11. The balance of such net insurance proceeds or condemnation payments shall remain the property of the Lessor. All net insurance proceeds received by the Lessor or the Lessees with respect to a Unit not suffering a Casualty Occurrence shall be applied in payment of the cost of repairing the damage to such Unit, and any balance remaining after the completion of such repairs shall be paid to the Lessees unless an Event of Default or other event which, with notice, demand and/or lapse of time, would constitute an Event of Default shall have occurred and be continuing, in which case the amount otherwise payable to the Lessees may be retained by the Lessor and applied to discharge the liabilities of the Lessees under Section 11. Any condemnation payments received with respect to a Unit not suffering a Casualty Occurrence shall be the property of the Lessor.

SECTION 8. *Voluntary Termination.* Unless an Event of Default or other event which, with notice, demand and/or lapse of time, would constitute an Event of Default shall have occurred and be continuing hereunder, the Lessees shall be entitled, at their option, upon at least 180 days' prior written notice to the Lessor and the Assignee, to terminate this Lease if the Lessees shall have made a good faith determination that all (but not less than all) of the Units have become obsolete or economically unserviceable to the Lessees' operations, which notice shall be accompanied by a certified copy of resolutions adopted by the Board of Directors of each of the Lessees making such determination and a written statement of the President or a Vice President of Wisconsin Power and Light Company, on behalf of all the Lessees, setting forth a summary of the basis for such determination; *provided, however*, that such termination shall become effective only on a rental payment date (hereinafter in this Section 8 called the Termination Date) and, in no event, prior to December 1, 1984; and *provided further*,

that such termination shall not take effect unless the Lessees shall have fully complied with the succeeding paragraphs of this Section 8.

During the period from the giving of such notice to the Termination Date, the Lessees, as agents for the Lessor, shall use their best efforts to obtain bids for the purchase of all the Units on an "as is, where is" basis, and the Lessees shall certify to the Lessor in writing the amount of each bid received and the name and address of the person (who shall not be any of the Lessees or any person, firm or corporation affiliated with any of the Lessees) submitting such bid. An "affiliate" of a Lessee shall mean any person which possesses, directly or indirectly, the right to vote at least 20% of the voting securities of such Lessee, and any person which, directly or indirectly, controls or is controlled by or is under common control with such Lessee, and "control" (including "controlled by" and "under common control with"), as used with respect to any person, shall mean the possession, directly or indirectly, of the power to direct or control the direction of the management and policies of such person, whether through the ownership of voting securities, by contract or otherwise. On the Termination Date, the Lessor shall, without recourse or warranty, sell all the Units for cash to whomsoever shall have submitted the highest bid therefor prior to the Termination Date, and thereupon the Lessees shall cause to be delivered the Units to the Lessor in accordance with the terms of Section 15. If the sale of all the Units shall not occur on the Termination Date, the Lessees shall not cause such delivery of the Units to the Lessor; and this Lease shall continue in full force and effect. The Lessor shall be under no duty to (but may) solicit bids, to inquire into the efforts of the Lessees to obtain bids or otherwise to take any action in connection with any such sale other than as expressly provided in this Section 8.

The total sale price realized at any such sale of the Units shall be retained by the Lessor and, in addition, the Lessees shall pay to the Lessor the excess, if any, of (i) the Casualty Value of the Units computed as of the Termination Date over (ii) the proceeds of such sale less all expenses incurred by the Lessor in connection with such sale or with the collection or distribution of such payment. The Lessees shall also be obligated to pay the Lessor (x) any and all rentals and other sums due hereunder with respect to the Units accrued up to and including the Termination Date and (y) the prepayment premium payable by the Lessor pursuant to Article 8 of the Conditional Sale Agreement. In the event of such sale and compliance by the Lessees with all the provisions of this Section 8, the obligations of the Lessees to pay rental hereunder on all rental payment dates commencing after the Termination Date shall terminate.

SECTION 9. Reports. On or before March 31 in each year, commencing with the year 1975, the Lessees will furnish to the Lessor and the Assignee an accurate statement (a) setting forth as at the preceding December 31 the amount, description and numbers of all Units then leased hereunder and covered by the Conditional Sale Agreement, the amount, description and numbers of all Units that have suffered a Casualty Occurrence or are then undergoing repairs (other than running repairs) or have been withdrawn from use pending repairs (other than running repairs) during the preceding calendar year and such other information regarding the condition and state of repair of the Units as the Lessor or the Assignee may reasonably request and (b) stating that, in the case of all Units repaired or repainted during the period covered by such statement, the numbers and markings required by Section 5 and the Conditional Sale Agreement have been preserved or replaced. The Lessor shall have the right, by its agents, to inspect

the Units and the Lessees' records with respect thereto at such reasonable times as the Lessor may request during the term of this Lease.

Within 120 days after the close of each of its fiscal years, each of the Lessees will promptly furnish to the Lessor and the Assignee its Form 10-K Annual Report to the Securities and Exchange Commission for such fiscal year (or any other comparable report substituted therefor which includes certified financial information). Each of the Lessees shall also furnish to the Lessor and the Assignee (i) as soon as available, and in any event within 45 days after the end of each of the first three quarterly periods of each fiscal year of such Lessee, copies of the income statements for the portion of such Lessee's fiscal year ended with such period and for the 12 months' period then ended and the balance sheet of such Lessee as of the end of such quarterly period, all of which financial statements may be unaudited, and (ii) such other financial information as the Lessor or the Assignee may reasonably request from time to time.

As soon as available and in any event within 120 days after the end of each of its fiscal years, Wisconsin Power and Light Company will deliver to the Lessor and the Assignee, on behalf of all the Lessees, a certificate signed by the President, any Vice President, the Treasurer or any Assistant Treasurer of Wisconsin Power and Light Company stating that a review of the activities of the Lessees during such fiscal year has been made under his supervision with a view to determining whether the Lessees have kept, observed, performed and fulfilled all of their covenants and obligations under this Lease and the Conditional Sale Agreement and that, to the best of his knowledge, the Lessees during such fiscal year have kept, observed, performed and fulfilled each and every covenant and obligation contained herein and in the Conditional Sale Agreement, or if an Event of Default under this Lease or the Conditional Sale Agreement shall exist or if an event has occurred which, with notice, demand and/or lapse of time, would constitute such an Event of Default, specifying such Event of Default or such event and the nature and status thereof. There shall be attached to such certificate a certificate signed by the President, any Vice President, the Treasurer or any Assistant Treasurer of Wisconsin Public Service Corporation and Madison Gas and Electric Company, respectively, stating that such corporation has fully discharged all of its financial covenants and obligations contained herein and in the Conditional Sale Agreement.

SECTION 10. *Disclaimer of Warranties; Compliance with Laws and Rules; Maintenance; Indemnification.* The Lessor makes no warranty or representation, either express or implied, as to the design or condition of, or as to the quality of the material, equipment or workmanship in, the Units delivered to the Lessees hereunder, and the Lessor makes no warranty of merchantability or fitness of the Units for any particular purpose or as to title to the Units or any component thereof, it being agreed that all such risks, as between the Lessor and the Lessees, are to be borne by the Lessees; but the Lessor hereby irrevocably appoints and constitutes the Lessees as its agents and attorneys-in-fact during the term of this Lease to assert and enforce from time to time, in the name of and for the account of the Lessor and/or the Lessees, as their interests may appear, at the Lessees' sole cost and expense, whatever claims and rights the Lessor may have against the Builder under the provisions of Article 14 of the Conditional Sale Agreement. The Lessees' delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessees and the Lessor that the Units described therein are in all of the foregoing respects satisfactory to the Lessees, and the Lessees will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

The Lessees agree, for the benefit of the Lessor and the Assignee, to comply in all respects with all laws (including, without limitation, laws with respect to the use, maintenance and operation of each Unit) of the jurisdictions in which operations involving the Units may extend, with the interchange rules of the Association of American Railroads and with all lawful rules of the United States Department of Transportation, the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Units, to the extent that such laws and rules affect the title, operation or use of the Units; and in the event that such laws or rules require any alteration, replacement or addition of or to any part of any Unit, the Lessees will conform therewith at their own expense; *provided, however*, that the Lessees may, in good faith, contest the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of the Lessor or the Assignee, adversely affect the property or rights of the Lessor or the Assignee under this Lease or under the Conditional Sale Agreement.

The Lessees, at their own cost and expense, shall maintain and keep each Unit in good order and repair.

Any and all additions to any Unit, and any and all parts installed on and additions and replacements made to any Unit, shall constitute accessions to such Unit and ownership thereof, free from any lien, charge, security interest or encumbrance (except for those created by the Conditional Sale Agreement or this Lease), shall immediately be vested in the Lessor and the Assignee as their respective interests appear in such Unit.

The Lessees agree to indemnify, protect and hold harmless the Lessor and the Assignee from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of the Conditional Sale Agreement or this Lease, the ownership of any Unit, the ordering, acquisition, use, operation, condition, purchase, delivery, rejection, storage or return of any Unit or any accident in connection with the operation, use, condition, possession, storage, sale or return of any Unit resulting in damage to property or injury or death to any person, except as otherwise provided in Section 15. The indemnities arising under this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease or the termination of this Lease.

The Lessees agree to prepare, deliver to the Lessor for execution within a reasonable time prior to the required date of filing and file (or, to the extent permissible, to prepare for and file on behalf of the Lessor directly) any and all reports (other than income tax returns) to be filed by the Lessor with any federal, state or other regulatory authority by reason of the ownership by the Lessor or the Assignee of the Units or the leasing thereof to the Lessees.

SECTION 11. *Default.* If during the continuance of this Lease one or more of the following events (each such event being hereinafter sometimes called an Event of Default) shall occur:

(A) default shall be made in payment of any part of the rental provided in Section 3, and such default shall continue for five days;

(B) the Lessees shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any thereof;

(C) the Lessees shall fail to maintain insurance in accordance with Section 7;

(D) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessees contained herein or in the Conditional Sale Agreement, and such default shall continue for 30 days after written notice from the Lessor to the Lessees, the Assignee and the Beneficiary specifying such default and demanding that the same be remedied; or

(E) any proceedings shall be commenced by or against any of the Lessees for any relief under any bankruptcy or insolvency law, or any law relating to the relief of debtors, readjustment of indebtedness, reorganization, arrangement, composition or extension, and, if such proceedings have been commenced against any of the Lessees, such proceedings shall not have been dismissed, nullified, stayed or otherwise rendered ineffective (but then only so long as such stay shall continue in force or such ineffectiveness shall continue) within 60 days after such proceedings shall have been commenced, or any of the Lessees shall make a general assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due;

then, in any such case, the Lessor, at its option, may:

(1) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessees of the applicable covenants of this Lease or to recover damages for the breach thereof, including net after-tax losses of federal and state income tax benefits to which the Lessor would otherwise be entitled under this Lease; or

(2) by notice in writing to the Lessees terminate this Lease, whereupon all rights of the Lessees to the possession and use of the Units shall absolutely cease and terminate as though this Lease had never been made, but the Lessees shall remain liable as hereinafter provided; and thereupon the Lessor may, by its agents, enter upon the premises of the Lessees or any other premises where any of the Units may be located and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of the Lessees, or their successors or assigns, to use the Units for any purposes whatsoever; but the Lessor shall, nevertheless, have a right to recover from the Lessees any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessees (a) as damages for loss of the bargain and not as a penalty, a sum, with respect to each Unit, which represents the excess of (x) the present value, at the time of such termination, of the entire unpaid balance of all rental for such Unit which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease as to such Unit over (y) the then present value of the rentals which the Lessor reasonably estimates to be obtainable for such Unit during such period, such present value to be computed in both cases on a basis of a 3.63% per annum discount, compounded semi-annually from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, (b) any damages and expenses, including reasonable attorneys' fees, in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant, representation or warranty of this Lease other than for the payment of rental and (c) an amount which, after deduction of all taxes required to be paid by the Lessor

in respect of the receipt thereof under the laws of the United States of America or any political subdivision thereof, shall, in the reasonable opinion of the Lessor, cause the Lessor's net return under this Lease to be equal to the net return that would have been available to the Lessor if it had been entitled to utilization of all or such portion of the ADR Deduction (as defined in Section 18) with respect to each Unit from the applicable Closing Date which was lost, not claimed, not available for claim or disallowed or recaptured in respect of such Unit as a result of the breach of one or more of the representations, warranties and covenants made by the Lessees in Section 18 or any other provision of this Lease, the inaccuracy of any statement in any letter or document furnished to the Lessor by the Lessees, the termination of this Lease, the Lessees' loss of the right to use such Unit or the sale or other disposition of the Lessor's interest in such Unit after the occurrence of an Event of Default.

It is expressly understood and agreed that upon the occurrence of any of the defaults or conditions described in clauses (A) through (E), both inclusive, of the first paragraph of this Section 11, and prior to the time that such default or condition shall constitute an Event of Default hereunder, either the Lessor or the Beneficiary may make such payment or perform such other act as will cure such default or condition, and the amount of all payments by the Lessor or the Beneficiary on behalf of the Lessees, plus the amount of all reasonable expenses incurred in connection therewith, together with interest thereon at the rate of $10\frac{3}{4}\%$ per annum from the date of expenditure to the date of reimbursement, shall constitute additional rental payable hereunder from the Lessees to the Lessor on demand.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessees hereby waive any mandatory requirements of law, now or hereafter in effect, which might limit or modify the remedies herein provided, to the extent that such waiver is permitted by law. The Lessees hereby waive any and all existing or future claims to any offset against the rental payments due hereunder, and agree to make rental payments regardless of any offset or claim which may be asserted by the Lessees or on their behalf.

The failure of the Lessor to exercise any of the rights granted it hereunder upon the occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

The foregoing provisions of this Section 11 are subject in all respects to all mandatory requirements of law at the time in force and applicable thereto.

SECTION 12. *Return of Units upon Default.* If this Lease shall terminate pursuant to Section 11, the Lessees shall forthwith deliver possession of the Units to the Lessor and shall:

- (a) forthwith place such Units upon such storage tracks as the Lessor reasonably may designate until such Units have been sold, leased or otherwise disposed of by the Lessor; and
- (b) cause the same to be delivered to any carrier for shipment directed by the Lessor.

The assembling, delivery, storage and transporting of the Units as in this Section 12 provided shall be at the expense and risk of the Lessees and are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled

to a decree against the Lessees requiring specific performance of the same. During any storage period, the Lessees will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Unit, to inspect the same.

Without in any way limiting the obligations of the Lessees under the foregoing provisions of this Section 12, the Lessees hereby irrevocably appoint the Lessor as the agent and attorney of the Lessees, with full power and authority, at any time while the Lessees are obligated to deliver possession of any Unit to the Lessor, to demand and take possession of such Unit in the name and on behalf of the Lessees from whomsoever shall be in possession of such Unit at the time.

SECTION 13. *Assignment; Possession and Use; Liens.* This Lease shall be assignable in whole or in part by the Lessor without the consent of the Lessees, but the Lessees shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. All the rights of the Lessor hereunder (including, but not limited to, the rights under Sections 6, 7, 8, 11 and 18 and the rights to receive the rentals payable under this Lease) shall inure to the benefit of the Lessor's assigns (including the partners or any beneficiary of any such assignee if such assignee is a partnership or a trust, respectively). Whenever the term "Lessor" is used in this Lease, it shall apply and refer to the Lessor and the Beneficiary and each such assignee of the Lessor and, where the context so requires (including, but not limited to, certain of the provisions of Sections 6, 11 and 18), shall refer only to the Beneficiary. The term "Beneficiary" as used herein shall include any affiliated group of corporations which includes the Beneficiary and which file a consolidated federal income tax return.

So long as the Lessees shall not be in default under this Lease or under the Conditional Sale Agreement, the Lessees shall be entitled to the possession and use of the Units in accordance with the terms of this Lease and the Conditional Sale Agreement, but, without the prior written consent of the Lessor, the Lessees shall not assign or transfer their leasehold interest under this Lease in the Units or any of them; *provided, however*, that this sentence shall not be deemed to prohibit any lien attaching to the leasehold interest of any Lessee under this Lease by reason of the existence of an after-acquired property clause in any mortgage to which such Lessee is a party covering substantially all of its utility property. The Lessees, at their own expense, will promptly pay or discharge any and all sums claimed by any person which, if unpaid, might become a lien, charge, security interest or other encumbrance (other than an encumbrance created by the Lessor or the Assignee or resulting from claims against the Lessor or the Assignee not related to the ownership of the Units) on or with respect to any Unit, including any accession thereto, or the interest of the Lessor, the Assignee or the Lessees therein, and will promptly discharge any such lien, charge, security interest or other encumbrance which arises; *provided, however*, that the Lessees shall not be required to pay or discharge any such claim so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings in any reasonable manner and the nonpayment thereof does not, in the opinion of the Lessor, adversely affect the title of the Lessor in or to the Units or otherwise adversely affect its rights or the rights of the Assignee under this Lease or the Conditional Sale Agreement; and *provided further*, that this covenant will not be breached by reason of the existence of liens for taxes, assessments or governmental charges or levies, in each case so long as not due and delinquent, or undeter-

mined or inchoate materialmen's, mechanics', workmen's, repairmen's or other like liens arising in the ordinary course of business and, in each case, not delinquent. The Lessees shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of their possession or control, any of the Units, except to the extent permitted by the provisions of the immediately succeeding paragraph.

So long as the Lessees shall not be in default under this Lease or under the Conditional Sale Agreement, the Lessees shall be entitled to the possession of the Units and to the use of the Units for a unit train to haul coal from Colstrip, Montana or any other location east of the Rocky Mountains to the Lessees' jointly-owned Columbia Generating Station at Portage, Wisconsin or to any other generating station owned by one or more of the Lessees in the State of Wisconsin (returning empty to the mine), but only upon and subject to all the terms and conditions of this Lease and the Conditional Sale Agreement; *provided, however*, that (i) the Lessees shall give written notice to the Lessor, the Beneficiary and the Assignee if the Units are to be regularly used for any service other than as a unit train to haul coal from Colstrip to the Columbia Generating Station, (ii) the Lessees shall not assign or permit the assignment of any Unit to service involving the regular operation and maintenance thereof outside the United States of America and (iii) the obligations of each of the Lessees hereunder (including the obligation to pay rentals and supplemental rentals) shall not in any manner or to any extent be diminished or affected by reason of the fact that coal hauled by the Units shall be delivered to or utilized by a generating station not owned by the Lessees in the same percentages as are set out in the first paragraph of Section 23.

SECTION 14. *Purchase and Renewal Options.* *Provided this Lease has not been earlier terminated and the Lessees are not in default hereunder, the Lessees may (a) by written notice delivered to the Lessor not less than six months prior to the end of the original term or any extended term of this Lease, as the case may be, elect to purchase all, but not less than all, of the Units then covered by this Lease at the end of the original term or any such extended term for a purchase price equal to the "Fair Market Value" of such Units as of the end of the original term or any such extended term or (b) by written notice delivered to the Lessor not less than six months prior to the end of the original term or the extended term of this Lease, as the case may be, elect to extend the term of this Lease in respect of all of such Units then covered by this Lease for an additional three-year period commencing on the scheduled expiration of the original term or the extended term of this Lease, as the case may be, provided that no such extended term shall extend beyond December 1, 1995. In the event that the term of this Lease is extended pursuant to the preceding sentence, the Lessees shall pay rentals at the "Fair Market Rental" of such Units in semi-annual payments on June 1 and December 1 in each year of such extended term.*

Fair Market Value shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than a lessee currently in possession or a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value. Fair Market Rental shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee (other than a lessee currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a de-

duction from such value. If on or before four months prior to the expiration of the term of this Lease, the Lessor and the Lessees are unable to agree upon a determination of the Fair Market Value or the Fair Market Rental, as the case may be, of the relevant Units, such value or rental shall be determined in accordance with the foregoing definitions by a qualified independent Appraiser. The term "Appraiser" shall mean such independent appraiser as the Lessor may select with the approval of the Lessees, or, failing such approved selection, a panel of three independent Appraisers, one of whom shall be selected by the Lessor, the second by the Lessees and the third designated by the first two so selected. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessees. The determination so made shall be conclusively binding upon both the Lessor and the Lessees. The expenses and fees of the Appraiser shall be borne by the Lessees.

Upon payment of the purchase price on the date of the expiration of the original term or, in the case of an extension hereof, the applicable extended term of this Lease, the Lessor shall, upon request of the Lessees, execute and deliver to the Lessees, or to the Lessees' assignee or nominee, a bill of sale (without representations or warranties except that such Units are free and clear of all liens, charges, security interests and other encumbrances by or in favor of any person claiming by, through or under the Lessor) for such Units, and such other documents as may be required to release such Units from the terms and scope of this Lease and to transfer title thereto to the Lessees, or such assignee or nominee, in such form as may reasonably be requested by the Lessees, all at the Lessees' expense.

SECTION 15. *Return of Units upon Expiration of Term.* As soon as practicable on or after the expiration of the original or any extended term of this Lease in the event the Units are not purchased pursuant to Section 14, the Lessees will, at their own cost and expense, at the request of the Lessor, deliver such Units to the Lessor upon such storage tracks as the Lessor may reasonably designate, or, in the absence of such designation, as the Lessees may select, and store such Units on such tracks for a period not exceeding three months and cause the same to be delivered, at any time within such three-month period, to any reasonable place directed by the Lessor. The movement and storage of such Units shall be at the expense and risk of the Lessees. During any such storage period, the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of such Units, may inspect the same; *provided, however*, that the Lessees shall not be liable, except in the case of negligence of the Lessees or of their employees or agents, for any injury to, or the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the right of inspection granted under this sentence. The assembling, delivery, storage and transporting of the Units as in this Section 15 provided are of the essence of this Lease, and, upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessees requiring specific performance of the same. If the Lessor shall elect to abandon any Unit which has suffered a Casualty Occurrence or which after the expiration of this Lease the Lessor shall deem to have suffered a Casualty Occurrence, it may deliver written notice to such effect to the Lessees and the Lessees shall thereupon assume and hold the Lessor harmless from all liability arising in respect of any responsibility of ownership thereof, from and after receipt of such notice. The Lessor shall execute and deliver to the Lessees a bill of sale and other documents, as specified in the last paragraph of Section 14, with respect to any Unit so abandoned. The Lessees shall have no liability to the Lessor in respect of any Unit abandoned by the Lessor

after termination of this Lease; *provided, however*, that this sentence shall not in any way relieve the Lessees of their obligations pursuant to Section 7 to make payments equal to the Casualty Value of any Unit experiencing a Casualty Occurrence while this Lease is in effect.

SECTION 16. *Opinion of Counsel.* On each Closing Date, the Lessees will deliver to the Lessor two counterparts of the written opinions of counsel for the Lessees, addressed to the Lessor, to the effect provided in subparagraphs (g) and (h) of the first paragraph of Section 5 of the Assignment.

SECTION 17. *Recording.* The Lessees, at their own expense, will cause this Lease, the Lease Assignment, the Conditional Sale Agreement and the Assignment, and any amendments or supplements hereto or thereto, and any further assignments hereof and thereof, to be filed and recorded in accordance with Section 20c of the Interstate Commerce Act, and the Lessees will undertake the filing, registering, depositing and recording required of the Lessor under the Conditional Sale Agreement and will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, deposit and record (and will refile, re-register, re-deposit or re-record whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Assignee for the purpose of proper protection, to their satisfaction, of the Lessor's and the Assignee's respective interests in the Units, or for the purpose of carrying out the intention of and their respective rights under this Lease, the Lease Assignment, the Conditional Sale Agreement and the Assignment; and the Lessees will promptly furnish to the Lessor and the Assignee evidences of all such filing, registering, depositing and recording, and an opinion or opinions of counsel for the Lessees with respect thereto satisfactory to the Lessor and the Assignee. This Lease and the Conditional Sale Agreement shall be filed and recorded with the Interstate Commerce Commission prior to the delivery and acceptance hereunder of any Unit.

SECTION 18. *Federal Income Taxes.* The Lessor, as the owner of the Units, intends to claim such deductions, credits (except as hereinafter provided in this Section 18) and other benefits as are provided by the Internal Revenue Code of 1954, as amended from time to time, to an owner of property, including, without limitation, the maximum depreciation deduction with respect to the Units authorized under Section 167 of the Internal Revenue Code of 1954, as amended to the date of the latest acknowledgment hereof (hereinafter called the Code), utilizing, for the purpose of calculating such deduction, the lower limit (12 years) for Asset Guideline Class 00.25 prescribed in accordance with Section 167(m) of the Code (such deduction being hereinafter called the ADR Deduction) and deductions with respect to interest payable under the Conditional Sale Agreement pursuant to Section 163 of the Code (such deductions being hereinafter called the Interest Deduction). Any investment credit with respect to the Purchase Price of the Units pursuant to Section 38 and related sections of the Internal Revenue Code of 1954, as amended from time to time, shall be assigned by the Lessor to the Lessees, and the Lessor shall file an appropriate election in furtherance thereof pursuant to Section 48(d)(1) of the Code. The Lessor does not warrant the availability of any such investment credit.

The Lessees agree that neither they, nor any corporation controlled by, in control of or under common control with, them, directly or indirectly, will at any time take any action or file any returns or other documents inconsistent with the foregoing and that each of such cor-

porations will file such returns, take such actions and execute such documents as may be reasonable and necessary to facilitate accomplishment of the intent hereof.

Notwithstanding anything to the contrary contained in Section 13, the Lessees represent and warrant that (i) at the time the Lessor becomes the owner of the Units, the Units will constitute "new section 38 property" within the meaning of Section 48(b) of the Code and will not have been used by any person so as to preclude "the original use of such property" within the meaning of Sections 48(b) and 167(c)(2) of the Code from commencing with the Lessor; (ii) at all times during the term of this Lease, none of the Lessees will do anything with respect to any Unit which will cause such Unit to cease to be "section 38 property" within the meaning of Section 48(a) of the Code; (iii) none of the Units will be used predominantly outside the United States within the meaning of said Section 48(a) (or any exception thereto); (iv) the Lessees will maintain sufficient records to verify such use; and (v) upon request of the Lessor, the Lessees will provide written reports establishing such use.

If by reason of the inaccuracy in law or in fact of the representations and warranties set forth in the preceding paragraph or any act or omission of the Lessees, the Lessor shall lose, or shall not have, or shall lose the right to claim, or shall suffer a disallowance of or shall be required to recapture (any such event being hereinafter called a Loss), all or any portion of the ADR Deduction with respect to all or part of any Unit, then the rentals for such Unit set forth in Section 3 shall, on the next succeeding rental payment date after written notice to the Lessees by the Lessor of such fact, be increased to such amount or amounts as shall, in the reasonable opinion of the Lessor, cause the Lessor's net return to equal the net return that would have been realized by the Lessor if the Lessor had been entitled to utilize all the ADR Deduction from the Closing Date relating to such Unit, and the Lessees shall forthwith pay to the Lessor as additional rental the amount of any interest and/or penalties which may be assessed by the United States of America against the Lessor attributable to the Loss of all or such portion of the ADR Deduction; *provided, however*, that such rental rate shall not be so increased if the Lessor shall have lost, or shall not have, or shall have lost the right to claim, or shall have suffered a disallowance of, or shall have been required to recapture, all or any portion of the ADR Deduction with respect to all or part of such Unit as a direct result of the occurrence of any of the following events:

(i) a Casualty Occurrence with respect to such Unit, if the Lessees shall have paid to the Lessor the amounts stipulated under Section 7;

(ii) a voluntary transfer or other voluntary disposition by the Lessor of any interest in such Unit or the voluntary reduction by the Lessor of its interest in the rentals from such Unit under this Lease, unless, in each case, an Event of Default shall have occurred and be continuing;

(iii) the failure of the Lessor to claim in a timely or proper manner the ADR Deduction;

(iv) the failure of the Lessor to have sufficient income to benefit from the ADR Deduction;

(v) the Lessor and the Beneficiary shall, without the prior written consent of the Lessees, voluntarily amend the Trust Agreement in such a manner as to result in the Lessor's Loss of the ADR Deduction.

provided, however, that any liability resulting from the failure of less than all of the Lessees to fulfill their respective obligations and duties hereunder shall be the sole responsibility of the Lessee or Lessees failing to fulfill such obligations or duties; and no other person, including without limitation the Lessor and the non-defaulting Lessee or Lessees, shall have any right or claim hereunder against any other non-defaulting Lessee by reason of such failure. Nothing herein contained shall be construed to create an association, joint venture, trust or partnership among the Lessees, or impose any trust or partnership duty, obligation or liability on or with respect to any one or more of the Lessees; and no Lessee or group of Lessees shall be deemed to be under the control of or to control any other Lessee or group of Lessees. Wisconsin Power and Light Company is hereby authorized to give notices on behalf of and otherwise to act as agent for all of the Lessees.

Nothing contained herein shall impair or affect any rights, claims or remedies which any Lessee may have against any other Lessee or Lessees by reason of or in connection with any default, breach or non-performance of any contract, agreement or other arrangement among any two or more of the Lessees other than the Finance Agreement or any document or instrument referred to therein or contemplated thereby. Wisconsin Power and Light Company shall give notice to each party hereto of any default by any of the other Lessees in depositing with Wisconsin Power and Light Company the necessary funds to satisfy such Lessee's obligations hereunder in accordance with the operating procedures established by and among the Lessees, it being understood and agreed that no Lessee shall have the right to perform the obligations of, or to cure the defaults of, any other Lessee or Lessees.

SECTION 24. *Law Governing.* The terms of this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Wisconsin; *provided, however*, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording, registering or depositing, if any, of this Lease and the Lease Assignment as shall be conferred by the laws of the several jurisdictions in which this Lease or the Lease Assignment shall be filed, recorded, registered or deposited.

SECTION 25. *Execution.* This Lease may be executed in any number of counterparts, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart. Although this Lease is dated as of May 15, 1974 for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

.....

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Lease to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

UNITED STATES TRUST COMPANY OF
NEW YORK, *as Trustee*

(CORPORATE SEAL)

By _____
Vice President

Attest:

Assistant Secretary

WISCONSIN POWER AND LIGHT COMPANY

(CORPORATE SEAL)

By _____
Vice President

Attest:

Secretary

WISCONSIN PUBLIC SERVICE CORPORATION

(CORPORATE SEAL)

By _____
Vice President

Attest:

Assistant Secretary

MADISON GAS AND ELECTRIC COMPANY

(CORPORATE SEAL)

By _____
Vice President

Attest:

Secretary

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss

On this day of July, 1974, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of United States Trust Company of New York, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its By-laws, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(NOTARIAL SEAL)

My commission expires

STATE OF WISCONSIN }
COUNTY OF DANE } ss

On this day of July, 1974, before me personally appeared , to me personally known, who, being by me duly sworn, says that he is a Vice President of Wisconsin Power and Light Company, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Notary Public

(NOTARIAL SEAL)

My commission expires

Notary Public

My commission expires _____

STATE OF WISCONSIN }
COUNTY OF DANE } SS

Notary Public

My commission expires

Annex A to
Lease of Railroad Equipment

<u>Type</u>	<u>Quantity</u>	<u>Car Numbers (Both Inclusive)</u>	<u>Estimated Time and Place of Delivery</u>
100-ton (4,000 cu. ft.) high-side steel gondola cars with swivel couplers	281	WISX 300 through 580	July-August, 1974 at the Columbia Generating Station, Portage, Wisconsin

ASSIGNMENT OF LEASE AND AGREEMENT

Dated as of May 15, 1974

between

UNITED STATES TRUST COMPANY OF NEW YORK,
as Trustee

and

**CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO,**
as Agent

ASSIGNMENT OF LEASE AND AGREEMENT dated as of May 15, 1974 between UNITED STATES TRUST COMPANY OF NEW YORK, as Trustee (hereinafter, together with its successors and assigns, called the Vendee) under a Trust Agreement dated as of the date hereof with GENERAL ELECTRIC CREDIT CORPORATION (hereinafter called the Beneficiary), and CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST COMPANY OF CHICAGO, as Agent (hereinafter, together with its successors and assigns, called the Assignee) under a Finance Agreement dated as of the date hereof (hereinafter called the Finance Agreement).

WHEREAS, the Vendee; THRALL CAR MANUFACTURING COMPANY (hereinafter called the Builder); and WISCONSIN POWER AND LIGHT COMPANY, WISCONSIN PUBLIC SERVICE CORPORATION and MADISON GAS AND ELECTRIC COMPANY (hereinafter called collectively the Lessees) have entered into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Conditional Sale Agreement) covering the construction, sale and delivery, on the conditions therein set forth, by the Builder and the purchase by the Vendee of the railroad equipment described in Annex A to the Conditional Sale Agreement (hereinafter called the Equipment);

WHEREAS, the Builder and the Assignee have entered into an Agreement and Assignment dated as of the date hereof (hereinafter called the Conditional Sale Assignment) assigning to the Assignee the right, security title and interest of the Builder under the Conditional Sale Agreement as security for the payment of the Conditional Sale Indebtedness (as defined in the Conditional Sale Agreement);

WHEREAS, the Vendee and the Lessees have entered into a Lease of Railroad Equipment dated as of the date hereof (hereinafter called the Lease) providing for the lease to the Lessees of the Equipment; and

WHEREAS, in order to provide further security for the payment of the Conditional Sale Indebtedness and as an inducement to the Investor (as defined in the Finance Agreement) to invest in the Conditional Sale Indebtedness, the Vendee has agreed to assign for security purposes certain of its rights in, to and under the Lease to the Assignee;

Now, THEREFORE, THIS ASSIGNMENT OF LEASE AND AGREEMENT (hereinafter called this Assignment) WITNESSETH That, in consideration of the sum of One Dollar and other good and valuable consideration paid by the Assignee to the Vendee, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained, the parties hereto do hereby agree as follows:

SECTION 1. The Vendee hereby assigns, transfers and sets over unto the Assignee, its successors and assigns, (i) all the Vendee's right, title and interest as lessor under the Lease, together with all rights, powers, privileges and other benefits of the Vendee as lessor under the Lease, including, without limitation, the immediate right to receive and collect all rentals, profits and other sums payable to or receivable by the Vendee under or pursuant to the provisions of the Lease, whether as rent, casualty payment, termination payment, indemnity, liquidated damages or otherwise (other than payments pursuant to Section 18 which shall be made directly to the Beneficiary) (such moneys being hereinafter called the Payments), it being expressly understood and agreed by the Assignee that such assignment of the Payments shall not thereby increase the amount of funds applicable to the payment or prepayment of the Conditional Sale Indebtedness or interest or premium, if any, thereon as provided in the last paragraph of Article 4 of the Conditional Sale Agreement; and (ii) the right to make all waivers and agreements, to give all notices, consents and releases, to take all action upon the happening of

an Event of Default specified in the Lease and to do any and all other things whatsoever which the Vendee as lessor is or may become entitled to do under the Lease. In furtherance of the foregoing assignment and transfer, the Vendee hereby authorizes and empowers the Assignee, in the Assignee's own name or in the name of the Assignee's nominee, or in the name of or as attorney hereby irrevocably constituted for the Vendee as lessor, to ask, demand, sue for, collect, receive and enforce any and all sums to which the Assignee is or may become entitled under this Assignment and compliance by the Lessees with the terms and agreements on their part to be performed under the Lease.

The Assignee agrees to accept any Payments made by the Lessees for the account of the Vendee as lessor pursuant to the Lease. To the extent received, the Assignee will apply such Payments to satisfy the obligations of the Vendee under the Conditional Sale Agreement, subject to the limitations contained in the last paragraph of Article 4 of the Conditional Sale Agreement, and any balance shall be paid as promptly as possible, and in any event within five Business Days, to and retained by the Beneficiary, unless and until the Vendee shall otherwise direct the Assignee in writing. If the Assignee shall not receive any rental payment under the first paragraph of Section 3 of the Lease when due, the Assignee shall notify the Vendee at the addresses set forth in the Lease.

SECTION 2. This Assignment is executed only as security and, therefore, the execution and delivery of this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify, the liability of the Vendee under the Lease, it being understood and agreed that, notwithstanding this Assignment, or any subsequent assignment, all obligations of the Vendee to the Lessees shall be and remain enforceable by the Lessees only against the Vendee or persons other than the Assignee.

SECTION 3. To protect the security afforded by this Assignment, the Vendee further agrees as follows:

(a) the Vendee will faithfully abide by, perform and discharge each and every obligation, covenant and agreement which the Lease provides are to be performed by the Vendee; and, without the express written consent of the Assignee, the Vendee will not anticipate the rents under the Lease or waive, excuse, condone, forgive or in any manner release or discharge the Lessees thereunder of or from the obligations, covenants, conditions and agreements to be performed by the Lessees, including, without limitation, the obligation to pay the rents in the manner and at the times and place specified therein, or enter into any agreement amending, modifying or terminating the Lease; and the Vendee agrees that any amendment, modification or termination thereof without such consent shall be void;

(b) at the Vendee's sole cost and expense (subject to Articles 4 and 22 of the Conditional Sale Agreement), the Vendee will appear in and defend every action or proceeding arising under, growing out of or in any manner connected with the obligations, duties or liabilities of the Vendee under the Lease if such action or proceeding shall arise out of the willful misconduct or reckless disregard of duty of the Vendee; and

(c) should the Vendee fail to make any payment or to do any act which this Assignment requires the Vendee to make or do, then the Assignee may (but shall not be obligated), after first making written demand upon the Vendee and affording the Vendee a reasonable period of time within which to make such payment or do such act, and without releasing

the Vendee from any obligation hereunder or under the Lease, make such payment or do such act in such manner and to such extent as the Assignee may deem necessary to protect the security hereof, including, without limitation, the right to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of the Assignee and also the right to perform and discharge each and every obligation, covenant and agreement of the Vendee contained in the Lease. In exercising any such powers, the Assignee may pay necessary costs and expenses, employ counsel and incur and pay reasonable attorneys' fees, and the Vendee will reimburse the Assignee for such costs, expenses and fees.

SECTION 4. Upon the full discharge and satisfaction of all the Vendee's and the Lessees' obligations under the Conditional Sale Agreement, this Assignment and all rights herein assigned to the Assignee shall terminate, and all estate, right, title and interest of the Assignee in and to the Lease shall revert to the Vendee.

SECTION 5. The Vendee represents and warrants that (a) the Trust Agreement, the Conditional Sale Agreement, the Conditional Sale Assignment, the Lease and this Assignment have each been duly authorized, executed and delivered by the Vendee and each is and will remain the valid and binding obligation of the Vendee enforceable in accordance with its respective terms; (b) the Vendee has not executed any other assignment of the Conditional Sale Agreement or the Lease and its right to receive all payments under the Lease is and will continue to be free and clear of any and all liens, charges, security interests or other encumbrances (except this Assignment) created or suffered by any act or omission on the part of the Vendee (other than any act or omission in respect of which the Lessees have assumed responsibility under the Lease), and the Vendee has not received any advance rental payments under the Lease; and (c) to the best knowledge of the Vendee, it has performed all obligations on its part to be performed under the Lease on or prior to the date hereof and there has not occurred on or prior to the date hereof any Event of Default as defined in the Lease.

SECTION 6. The Vendee agrees with the Assignee that in any suit, proceeding or action brought by the Assignee under the Lease for any installment of, or interest on, any rental or other sum owing thereunder, or to enforce any provisions of the Lease, the Vendee will indemnify, protect and hold harmless the Assignee from and against all expense (including without limitation counsel fees), loss or damage suffered by reason of any defense, set-off, counterclaim or recoupment whatsoever claimed by the Lessees arising out of a breach by the Vendee of any obligation under the Lease or arising by reason of any other indebtedness or liability at any time owing to the Lessees from the Vendee. Any and all such obligations shall be and remain enforceable against and only against the Vendee and shall not be enforceable against the Assignee or any person or persons in whom any of the rights of the Vendee under the Lease shall vest by reason of this assignment or of successive assignments or transfers.

SECTION 7. The Assignee may assign all or any of its rights under the Lease, including the right to receive any Payments due or to become due thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, and upon giving by the Assignee of written notice of such assignment to the Vendee and by the Vendee of the written notice required in Section 13 of the Lease, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 8. The Vendee hereby agrees that it will from time to time and at all times, at the request of the Assignee or its successors or assigns, make, execute and deliver all such further

instruments of assignment, transfer and assurance and do such further acts and things as may be necessary and appropriate in the premises to give effect to the provisions hereinabove set forth and more perfectly to confirm the rights, titles and interests hereby assigned and transferred to the Assignee or intended so to be, including the execution and acknowledgment of any instrument necessary or appropriate to file, record, register or deposit this Assignment or notice hereof.

SECTION 9. The Vendee shall cause copies of all notices received in connection with the Lease to be promptly delivered to the Assignee at its address set forth in Article 21 of the Conditional Sale Agreement, or at such other address as the Assignee shall designate in writing. The Assignee shall give immediate notice by telegram, promptly confirmed in writing, to the Vendee and the Beneficiary of any default by the Lessees described in clause (A) of Section 11 of the Lease and of any other default by the Lessees described in such Section 11 of which the Assignee has actual knowledge.

SECTION 10. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the State of Wisconsin; *provided, however*, that the parties shall be entitled to all rights conferred by Section 20c of the Interstate Commerce Act and such additional rights arising out of the filing, recording, registering or depositing, if any, of the Lease or this Assignment as shall be conferred by the laws of the several jurisdictions in which the Lease or this Assignment shall be filed, recorded, registered or deposited.

SECTION 11. This Assignment may be executed in any number of counterparts, but the counterpart delivered to the Assignee shall be deemed to be the original counterpart. Although this Assignment is dated as of May 15, 1974 for convenience, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due corporate authority, have caused this Assignment to be signed in their respective corporate names by duly authorized officers and their respective corporate seals to be hereunto affixed and duly attested, all as of the date first above written.

UNITED STATES TRUST COMPANY OF
NEW YORK, *as Trustee*

(CORPORATE SEAL)

By _____
Vice President

Attest:

Assistant Secretary

CONTINENTAL ILLINOIS NATIONAL BANK
AND TRUST COMPANY OF CHICAGO, *as Agent*

(CORPORATE SEAL)

By _____
Second Vice President

Attest:

Trust Officer

Notary Public

My commission expires.

STATE OF ILLINOIS }
COUNTY OF COOK } ss

Notary Public

My commission expires _____

ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

Receipt of a copy of, and due notice of the assignment made by, the foregoing Assignment of Lease and Agreement is hereby acknowledged as of May 15, 1974.

WISCONSIN POWER AND LIGHT COMPANY

By _____
Vice President

WISCONSIN PUBLIC SERVICE CORPORATION

By _____
Vice President

MADISON GAS AND ELECTRIC COMPANY

By _____
Vice President